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GENERAL DEBATE

Letter dated 16 October 1997 from the Permanent Representative of Chile to the United Nations addressed to the President of the General Assembly

I have the honour to write to you with reference to agenda item 9, entitled "General debate", and in particular to the reply from the Permanent Mission of Bolivia to the United Nations contained in the communication from that Mission dated 10 October 1997 (A/52/448).

The Chilean Government, considering that it has already addressed the subjects raised by the Permanent Mission of Bolivia in the Chilean reply to the statement by the President of Bolivia, which was circulated to the General Assembly on 30 September 1997 (A/52/409), wishes simply to reiterate that it will formalize its commitment to dismantle anti-personnel landmines by signing the Oslo Convention on 2 December 1997, while reaffirming, in a broader context, its full respect for international treaties that have been validly concluded.

I should be grateful if you would have the text of this letter circulated as a document of the General Assembly under agenda item 9.

(Signed) Juan SOMAVÍA
Ambassador
Permanent Representative of Chile
to the United Nations

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Fifty-first session
Agenda item 110

ELIMINATION OF RACISM AND RACIAL DISCRIMINATION

Measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report on contemporary forms of racism, racial discrimination, xenophobia and related intolerance prepared by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 51/79.

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I. INTRODUCTION

1. Pursuant to the mandate given to him by the Commission on Human Rights in its resolution 1993/20 and extended for a period of three years by its resolution 1996/21, the Special Rapporteur presented to the Commission, at its fifty-third session, a report on his activities during 1996 (E/CN.4/1997/71 and Add.1 and 2).

2. By its resolution 1997/73 of 18 April 1997, concerning measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Commission took note of the aforementioned report and requested the Special Rapporteur to continue his exchange of views with Member States and the relevant mechanisms and treaty bodies in order to enhance further their effectiveness and mutual cooperation. The Commission also renewed its request to the Secretary-General to provide the Special Rapporteur with all the appropriate assistance to carry out his mandate and enable him to submit an interim report to the General Assembly at its fifty-second session and a comprehensive report to the Commission at its fifty-fourth session.

3. This report is submitted pursuant to that Commission resolution and to General Assembly resolution 51/81, of 12 December 1996. In preparing the report, the Special Rapporteur received, in response to his requests, communications from a number of States and reports from non-governmental human rights organizations. As in the past, he also made use of unofficial sources, including reliable international press sources, to make up for the lack of information resulting from most States' failure to cooperate.

4. This report consists of three sections concerning, respectively, the activities of the Special Rapporteur since the previous session of the General Assembly; contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance; and measures taken or envisaged by Governments. It ends with conclusions and recommendations.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Participation in the work of the Commission on Human Rights

5. The Special Rapporteur took part in the work of the fifty-third session of the Commission on Human Rights, in April 1997. In addressing the Commission, the Special Rapporteur alerted it to the disturbing situation brought about by the resurgence of manifestations of racism and racial discrimination in the world. The discussions which followed his presentation gave rise to a decision and to two resolutions of the Commission (1997/73, mentioned above, and 1997/74).

1. Decision 1997/125

6. Several delegations of member States of the Organization of the Islamic Conference (OIC) reacted strongly to a passage in the Special Rapporteur's report (E/CN.4/1997/71, paragraph 27) which they considered as blaspheming the Qur'an. Following this regrettable incident, the Special Rapporteur explained that the passage in question was a quote from a document produced by the Israeli Government and that he did not intend to become involved in religious polemics and controversies. The incident prompted the Commission to adopt decision 1997/125 of 18 April 1997 deleting the final sentence of section 3 of the text quoted in paragraph 27 of the report.

7. The Special Rapporteur later met with Ambassador Agus Tarmidzi, Permanent Representative of Indonesia to the United Nations and the specialized agencies in Geneva and current Chairman of OIC, on 23 May 1997. At that meeting, the Special Rapporteur confirmed that he was not the author of the passage with which the members of OIC had taken issue and that he could not take responsibility for it. He informed Ambassador Tarmidzi of the contacts which he had had with the Israeli Government concerning its communication containing the passage in question, but reminded him that it was not for the Special Rapporteur to censor a government communication. Concerning the reference to anti-Semitism in the report, the Special Rapporteur told the Ambassador that it was the resolutions of the Commission on Human Rights that made a distinction between anti-Semitism and other forms of racial discrimination of which Arabs and Muslims might be the victims. Ambassador Tarmidzi acknowledged the explanations given by the Special Rapporteur and said that he would make them known to the members of OIC at its next meeting.

2. Resolution 1997/74

8. On 18 April 1997, following its consideration of the issue of racism, racial discrimination, xenophobia and related intolerance, the Commission on Human Rights adopted resolution 1997/74, which deals with the following subjects: implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and coordination of related activities; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and follow-up to his visits; the International Convention on the Elimination of All Forms of Racial Discrimination; and a world conference against racism and racial discrimination, xenophobia and related intolerance.

9. The Commission requested the Special Rapporteur to continue his exchange of views with Member States and the relevant mechanisms and treaty bodies within the United Nations system in order to enhance further their effectiveness and mutual cooperation; called upon all Governments, intergovernmental organizations and other relevant organizations of the United Nations system, as well as non-governmental organizations, to supply information to the Special Rapporteur; urged all Governments to cooperate fully with the Special Rapporteur with a view to enabling him to fulfil his mandate; and requested the Secretary-General to provide the Special Rapporteur, without further delay, with all the necessary assistance and resources to carry out his mandate and enable him to submit an

interim report to the General Assembly at its fifty-second session and a comprehensive report to the Commission at its fifty-fourth session.

B. Missions under consideration by the Special Rapporteur

10. After the fifty-third session of the Commission on Human Rights, the Special Rapporteur had considered undertaking missions to Australia and South Africa.

1. Australia

11. In his latest report to the Commission on Human Rights (E/CN.4/1997/71), the Special Rapporteur stated that he had written to the Australian Government regarding two communications which he had received in 1996 and which contained allegations of a rise in racism and xenophobia, particularly towards Aborigines and Australians of Asian origin. No response regarding the two communications had been forthcoming from the Australian Government. However, the latter subsequently responded positively, on 25 August 1997, to the Special Rapporteur's request to undertake a mission to Australia. He welcomed this response from the Australian Government and plans to carry out his mission immediately after participating in the work of the Third Committee of the General Assembly.

2. South Africa

12. During the fifty-third session of the Commission on Human Rights, several representatives of non-governmental organizations reported on the worrying situation in South Africa, attributable, inter alia, to the legacy of apartheid, inter-ethnic conflicts and problems related to massive immigration. The Government has imposed restrictions on immigration which several organizations consider to be discriminatory towards foreigners. In order to assess the situation in person, the Special Rapporteur had considered undertaking a mission to that country in August 1997. The Office of the United Nations High Commissioner for Human Rights Centre for Human Rights contacted the Permanent Mission of South Africa in Geneva to this end but is still awaiting a response from the South African Government. Since the dates planned for the mission have passed, it has been postponed until a response is received.

III. CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

13. As in his previous reports, the Special Rapporteur would like to highlight the most significant events which have taken place as regards contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance. These concern discrimination against immigrants and migrant workers; human rights violations in holding areas in France; the role of the media, particularly the Internet, in inciting racial hatred and violence;

discrimination against Roma, gypsies or travellers in certain countries; and the discriminatory application of the death penalty in the United States of America.

A. Discrimination against immigrants and migrant workers

1. Contribution of public bodies responsible for combating racism and other forms of racial discrimination

14. The non-governmental human rights organization Nord-Sud XXI stated the following:

"One of the major issues regarding racism is the problem of population flows moving from underdeveloped areas, war zones or situations of repression to peaceful, developed areas. That States of the North cannot at one and the same time (even though this is indeed their attitude):

- Preserve unchanged the profound inequality of the structures of international society and give lessons in humanitarianism to the whole world;

- Turn away vast numbers of individuals who are entitled to asylum under agreements such as the 1951 Convention relating to the Status of Refugees, after having themselves organized immigration during their years of economic growth;

- Treat in a discriminatory manner de jure or de facto refugees residing in their territory.

"France, which constantly invokes the two-centuries-old Declaration of the Rights of Man and of the Citizen (not 'the Rights of the Frenchman'), has been elaborating a series of discriminatory legal and regulatory provisions (such as the 1996 law on identity checks). Its public administration (service des étrangers at the prefecture level, Office français pour les réfugié et apatrides, etc.) often functions in a discriminatory manner, working on the basis of mere circulars which contradict legislative provisions or decisions of the Supreme Court. Rights and freedoms have thus been eroded and legality undermined by a policy of social and racial discrimination ...

"Immigration policy in Europe and the United States of America is a measure of the ability of the great Powers to conceive of a new kind of North-South relationship, based on cooperation rather than hegemonism.

"In any case, Nord-Sud XXI, whose philosophy, internal methods and social practice involve systematically bringing together public figures and political activists from all over the world, believes that a world summit on racism, paying particular attention to the issue of immigration and its linkage with North-South relations, should be organized as a matter of great urgency.

"The Vienna and Copenhagen summits produced declarations of great significance, but much remains to be done to act on their findings."

15. The Ligue des droits de l'homme (Belgium, Francophone section) sent the Special Rapporteur information claiming that the Belgian Government has unburdened itself of the task of expelling foreigners by using a private firm. In support of its communication, the Ligue transmitted to the Special Rapporteur excerpts from a recent publication dealing with such "subcontracting" of the expulsion of undocumented aliens:[1]

"Since 1994, Belgium has been sending hundreds of deported Africans, no longer to their countries of origin, but to Abidjan (Côte d'Ivoire), where they are received and dispersed by the firm Budd. The local office of the firm, which has branches throughout the world, is managed by a man called Faustin who is universally believed to have the most surprising contacts in Abidjan's immigration department but also in various African embassies and government offices [...].

"The transport of deportees has become a lucrative market since Europe began expulsions on a very large scale; suddenly, entrepreneurs are also trying to gain a foothold in this market. The French firm Budd has existed since 1850. It was originally the 'agent' of Club P & I, a specialized insurance company for shipowners which insured them against anything that could possibly go wrong on board ship. Having stowaways on board is one particular kind of 'damage' and these agents have long been in charge of their repatriation. For James T. Budd, the director, it was not such a big change when he went into the deportee business. He has an office on the Champs-Elysées, where his colleagues in the Wiggins firm of security consultants are also located [...].

"The Netherlands police had also received offers from Budd via the Côte d'Ivoire immigration department suggesting a certain overlapping between these different bodies. Commander Jaco Oussoren is extremely critical of the Belgian system. The Belgian Government would order a person to be escorted to a certain country, but did the Belgian police have the right to summarily subcontract a deportation order issued by the Ministry? No one would check what Budd did with the deportees, let alone their final destination. In the Netherlands, on the other hand, the police commander would immediately have been inundated with parliamentary questions."

2. United Nations seminar on immigration, racism and racial discrimination (Geneva, 5 to 9 May 1997)

16. In the context of the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (General Assembly resolution 49/146, annex, para. 7 (e)), the Office of the High Commissioner/ Centre for Human Rights organized a seminar on immigration, racism and racial discrimination in Geneva from 5 to 9 May 1997. The purpose of the seminar was to examine the contemporary forms and manifestations of racism and racial discrimination which immigrants must face. The Special Rapporteur was invited

but unable to attend. However, he received the texts of some of the presentations made.

17. In his presentation on globalization and immigration, Mr. Jean-Pierre Page, officer in charge of international trade union relations and activities at the Confédération Générale du Travail (France), commenting on the restrictive, discriminatory policies of the industrialized countries of the North towards foreign workers from the South, said:

> "The European Union advocated the free movement of labour, while each country of the European Community attempted to restrict immigration from outside the Community. The United Kingdom continued to give preference to immigrants from the Commonwealth. As for France, migrants from the former colonies were always admitted more easily, then preference began to be given to migrants from countries whose political regimes seemed more favourable. There were also, in France's case, migrants from the overseas departments and territories, whose numbers were not included in the statistics on aliens. Germany gave preference to Turkish workers, then to Yugoslav workers, mainly Croats, and to asylum-seekers from the Eastern European countries, before finally adopting more restrictive legislation.
>
> "The United States of America also pursued an immigration policy guided primarily by specific manpower requirements but also by its economic and strategic interests. Its policies towards Israel, the Philippines and China were guided by strategic concerns. As for Mexican immigrants, the opening up of the North American market (North American Free Trade Agreement (NAFTA)) and the opportunity to put pressure on wages made them particularly attractive to United States employers. Nowadays, the focus is on the "brain drain", on those highly qualified in the arts, culture and science. The confluence of all these interests has led the United States to gradually increase the overall quota, and that does not include the high proportion of illegal immigration into the country. This policy has also been accompanied by particularly repressive measures against Mexican nationals and those working in the maquiladora industry and in free zones."

B. Human rights violations in holding areas in France

18. The Association nationale d'assistance aux frontières pour les étrangers (ANAFE) (France) states in its 1997 report on visits carried out to holding areas by the authorized organizations (Service oecuménique d'entraide (CIMADE), Amnesty International, the French Red Cross and ANAFE itself)[2] that:

> "In the minds of the legislature in 1992, access by humanitarian organizations to persons in holding areas for the provision of humanitarian and legal assistance was a vital safeguard, and they made giving up an amendment to that effect subject to the Government's committing itself to establishing the procedures by decree. This first year of operation of the decree has unfortunately confirmed the fears which ANAFE expressed when it was published in May 1995: the restrictions imposed, particularly in terms of the frequency of visits allowed, prevent the organizations from doing their job.

"The visits have allowed the organizations, however, to record violations of the rights, dignity and even safety of persons of such gravity that the situation for foreigners at France's air, sea and railway entry points can be described as scandalous:

"Upstream of the holding areas:

- Systematic violations of the right to one clear day before the decision to refuse entry is carried out;
- Immediate refoulement as soon as physically possible;
- Illegal types of deprivation of liberty (keeping persons on board ship at sea, administrative detention and arbitrary detention at some frontier posts);
- No possibility of communicating or appealing;
- No possibility under these conditions of seeking asylum;

In the holding areas:

- Accommodation in conditions that are physically very inadequate and injurious to individual dignity and even safety, particularly for minors;
- Conditions of accommodation that for the most part allow no freedom of movement and impose excessive isolation on the individuals held;
- Lack of information for the interested parties on their rights and on the procedure which they are undergoing;
- Serious procedural irregularities;
- Violations of:
  - The right to the assistance of an interpreter or a doctor;
  - The right to communicate freely;
  - The rights of defence;
  - The right of asylum.

"This situation, of course, has its roots in the attitude of the administration, which systematically sacrifices respect for the law on the altar of 'efficiency', but the legislation itself, which sets up injustices and secrecy, opened the way for it."

C. The role of the media in inciting racial violence: contributions to the debate on the theme "Internet, racism and racial discrimination"

19. In his latest report to the Commission on Human Rights (E/CN.4/1997/71), the Special Rapporteur described cases where the Internet has been used as a vehicle for racist propaganda, mentioning in particular a 1995 report by the Centre pour l'égalité des chances et la lutte contre le racisme in Belgium. As part of his continuing study of this issue, the Special Rapporteur has received a communication from the International Movement against All Forms of Discrimination and Racism, a non-governmental human rights organization based in Geneva. The Movement reports that, since the Internet came on the scene, many cases of discrimination have been recorded on sites in Japan, basically against members of the Buraku population but also against Koreans living in Japan and against the Ainu, women, persons with disabilities and homosexuals. The Movement also mentions a case of discrimination found in a message put onto the Internet by a certain "Association for the Protection of the Japanese" and aimed particularly against the Buraku. According to the Association, the Buraku are "genetically inferior and children born of a union with a Buraku woman inherit congenital defects". Also, "Buraku people working in teaching are not capable of transmitting Japan's traditional values". The Movement says that the Association has never been taken to court.

20. The Special Rapporteur is seriously concerned about these incidents and recommends that the Japanese Government, and all Governments that may have knowledge of similar incidents in their countries, should take firm action to stamp such practices out. On the international level, he welcomes the initiative taken by the General Assembly in its resolution 51/81 (para. 10), whereby the Assembly recommends that a seminar be organized by the Centre for Human Rights, in cooperation with the Committee on the Elimination of Racial Discrimination, the United Nations Educational, Scientific and Cultural Organization, the International Telecommunication Union and other relevant United Nations bodies, non-governmental organizations and Internet service providers, with a view to assessing the role of the Internet in the light of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.

21. The Office of the United Nations High Commissioner for Human Rights plans to hold this seminar on the Internet and racial discrimination from 10 to 14 November 1997 and has invited the Special Rapporteur to it. The Special Rapporteur welcomes the imminent holding of the seminar and hopes that its work will be a step forward in the search for ways and means of resolving the thorny issue of the use of the Internet as a vehicle for racial discrimination, and that it will adopt specific recommendations so that suitable strategies can be adopted and specific action taken to combat the practice.

D. Roma, gypsies or travellers

22. In his latest report to the Commission on Human Rights, the Special Rapporteur mentioned cases of racial discrimination against Roma, particularly by skinheads, in Bulgaria, Romania, the Czech Republic and Slovakia. The

Special Rapporteur has learnt of other recent acts of violence and atrocities against Roma from documentation provided by the European Roma Rights Centre. The journal put out by the Centre, Roma Rights, reports the following cases.[3]

23. In Ukraine, following a resurgence of police brutality against Roma, a Rom was arrested on 4 December 1996 while collecting dead batteries. He was beaten at the police station in Uzhhorod and on his release said that he had been deprived of food for two days. In the same region, on 1 January 1997, police officers invaded the homes of two Roma families on the pretext that they were looking for a thief. Reliable reports indicate that the police officers struck the adult members of the two families and forced two children aged 16 and 10 to stand and recite "Gypsies are bastards, the best place for them is in the graveyard".

24. In Greece, police officers swooped on the Roma camp at Ano Liosia in Attica at 6 a.m. on 27 October 1996, on the pretext of arresting a 21-year-old Rom suspected of stealing cannabis. In the suspect's absence, the police officers took his mother and sister hostage. Verbal exchanges took place as a result of the rage felt by the camp's population and stones were thrown at the police. The police reacted with a second incursion. That same day, the Minister of the Interior said that the police had been doing their job and that people should not believe what gypsies said.

25. In Bulgaria on 2 and 3 February 1997, the newspapers reported the deaths of three Roma children from starvation in the town of Stara Zagora. On 4 February, following an increase in the price of bread, 2,000 Roma demonstrated in the centre of the town of Pazardzhik in protest against "the discriminatory policies of the central Government and the local authorities".

E. Discriminatory application of the death penalty in the United States of America

26. In a recent report on the death penalty in the United States,[4] Amnesty International says that:

> "Racial discrimination in the use of the death penalty continues to be a major concern. For example, 16 of the prisoners executed in 1996 were from ethnic minorities (35.55 per cent), approximately double the percentage in the general population. Also, the vast majority of those executed had been convicted of the murder of a white victim, even though ethnic minorities are murder victims in almost equal numbers as whites."

27. In the same report, Amnesty International mentions cases highlighting the serious consequences of this discriminatory practice by the judiciary, such as miscarriages of justice, which may result in innocent people being put to death. Among these cases are several involving Blacks. In July 1996, four Blacks were cleared of murder 18 years after being convicted. One of them, Dennis Williams, said at a press conference that racism had been to blame for the miscarriage of justice against them. Williams said that the police had picked up the first four Black men they could, without caring whether they were innocent or guilty.

In another case, in Missouri, during the hearing of a case against an unemployed Black man, a judge said that:

> "The Democrat party places far too much emphasis on representing minorities ... people who don't work, and people with a skin that's any colour but white".

The defendant was sentenced to death.

IV. MEASURES TAKEN OR ENVISAGED BY GOVERNMENTS AND LEGISLATIVE AND JUDICIAL BODIES

28. The Special Rapporteur has been informed of measures taken or envisaged by a number of Governments and by the legislative and judicial bodies of some States to combat racism, racial discrimination, xenophobia and related intolerance or to prevent overt manifestations of them. The Rapporteur mentions below the communications received from the German and Brazilian Governments and information on initiatives taken by the United States, French and Australian Governments. The other communications received will be studied and commented on in the report to be submitted to the Commission on Human Rights at its fifty-fourth session.

A. Communication from the German Government

29. In his previous report to the General Assembly (A/51/301), the Special Rapporteur noted observations made by the German Government on a number of paragraphs of his report to the General Assembly at its forty-ninth session (A/49/677). He thanked the German Government for its clarifications regarding the alleged incidents of racial discrimination brought to its attention and congratulated it on the measures taken to punish the offenders and to improve, through appropriate action, the situation regarding xenophobia and racial violence. He also encouraged the German Government to pursue its efforts to curb xenophobia and racial violence.

30. In this context and in response to the Special Rapporteur's request for information on the measures taken or envisaged by Governments to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the German Government sent a communication with information on the measures taken. This included information on racially motivated violence against migrant workers and their families and other vulnerable social groups; on the responsibility of the media (including the Internet) in inciting acts of racially motivated violence; on social measures to eliminate all forms of racism, including the organization of the European Year against Racism and educating people to be tolerant; on the legal situation in the area of racism and racial discrimination (status of criminal law); on the policy for integrating foreigners; and on compensation for victims of acts of violence in the Federal Republic of Germany. The document relating to this communication is available for consultation in the secretariat (Office of the High Commissioner for Human Rights).

31. All the measures taken or envisaged by the German Government were duly noted by the Special Rapporteur, especially those aimed at combating and preventing a new kind of contemporary form of racism, namely, the use of the Internet for purposes of racism and racial discrimination. In that connection, the German Government provided the following information:

"Recently, this has also included the so-called new media, for instance, on-line services which can be accessed through modern information and communication technologies. The legal situation can be described as follows: anything which is harmful or even punishable in an 'off-line' form must not be assessed or treated differently once it is presented 'on-line'. However, the legal and investigative possibilities are restricted, mainly due to the anonymous and frequently international dissemination of information (international networks).

"The Internet is a typical example of a global information network. In late 1996, the Federal Government adopted a Federal Bill Establishing the General Conditions for Information and Communication Services. Following the parliamentary debate, the Bill will come into force on 1 August 1997. The Bill lays down the basic legal terms for the provision and use of the new information and communication services. It lays down the responsibility of the so-called providers, and contains amendments to the Penal Code and to the Act on Administrative Offences and specific youth protection provisions, as the Bill extends the Act Concerning the Distribution of Publications Harmful to Young Persons to the new information and communication services. The Federal Government has thus made clear that it actively counteracts the portrayal of violence in the new media.

"The Bill is based on the principle of freedom of access. It reflects the fact that the responsibility of those concerned needs to be regulated, with the providers' responsibility for their own content being governed by general statutes. The common aim should be to encourage Internet providers - both nationally and internationally - efficiently to filter out illegal information on the Internet on a voluntary basis.

"An unequivocal identification procedure for all Internet users world wide would be required, so as to ensure - both nationally and internationally - that information which is relevant from a criminal law point of view is not disseminated via the data networks. This procedure would be employed at certain nodal points, for instance, where the information is fed in by the providers ... Industry is called upon to develop such safe systems and secure them internationally. However, the terms and systems of criminal law also need to be harmonized.

"When asked about the connection between the portrayal of violence in the media and the actual use of violence, the Federal Government has several times appealed to those responsible to limit the portrayal of violence. However, owing to the freedom of the press, broadcasting and films which is enshrined in article 5 (1), second sentence, of the Basic Law, the State must not interfere with, or exert an influence on, the content of the media. There is also a ban on censorship, so that media

content cannot be checked in detail. Therefore, the Federal Government can only appeal to the responsible media professionals not to publish any harmful or punishable content and, equally importantly, not to contribute to the escalation of violence by dramatizing specific events."

B. United States of America

32. In his most recent report to the Commission on Human Rights (E/CN.4/1997/71), the Special Rapporteur noted that despite the progress made, thanks in part to affirmative action, racism and racial discrimination persisted, structurally, economically, socially and culturally in the United States. By way of illustration, he mentioned the Texaco affair, the fires in black community churches, police brutality in New York, the discriminatory application of the death penalty in the State of Georgia and incitements to racial hatred and anti-Semitism appearing on the Internet. He did, however, express satisfaction at the ratification by the United States of the International Convention on the Elimination of All Forms of Racial Discrimination, while warning that there was still resistance on that score and that much remained to be done.

33. The Special Rapporteur has been informed of President William J. Clinton's initiative on race, "One America in the 21st Century", which he announced in the course of an address delivered at the University of California at San Diego on 12 June 1997. This year-long (September 1997-September 1998) initiative will examine the current state of race relations and the common future of the various communities living in the United States; promote the adoption of laws and policies that can help ensure that the country remains cohesive; and enlist individuals, communities, businesses and government at all levels in an effort to help Americans understand their differences while appreciating the values that unite them.[5]

34. According to the press release issued on 12 June 1997 by the White House information service, the goals of the President's initiative are:

"I. To articulate the President's vision of racial reconciliation and a just, unified America.

II. To help educate the nation about the facts surrounding the issue of race.

III. To promote a constructive dialogue, to confront and work through the difficult and controversial issues surrounding race.

IV. To recruit and encourage leadership at all levels to help bridge racial divides.

V. To find, develop and implement solutions in critical areas such as education, economic opportunity, housing, health care, crime and the administration of justice ..."

35. The elements of this initiative are: the establishment of a diverse, seven-member advisory board which will examine the current state of racial discrimination and recommend appropriate corrective measures to the President; a nationwide campaign by the President to raise public awareness; outreach to community leaders, businessmen, State and local officials, members of Congress, business leaders and individuals, encouraging them to become involved in reconciliation and community-building projects; and a President's report to the nation on the status of the race issue.

36. The President's report, to be issued at the end of September 1998, will:

> "Present his vision of One America, including an illustration and assessment of the growing diversity of our nation, and of his consultations with his advisory board;
>
> Reflect the work that has occurred during the year, including the conversations and suggestions made at town hall meetings and other venues;
>
> Report on how the nation has evolved on the issue of race over the past 30 years, including the studies commissioned for the initiative;
>
> Provide recommendations and solutions that enable individuals, communities, businesses, organizations and government to address difficult issues and build on our best possibilities."

37. The Special Rapporteur welcomes this initiative by the United States Government.

C. France

38. In his previous report to the General Assembly (A/51/301), the Special Rapporteur had noted the intention of the then French legislature to increase the severity of the Pasqua/Debré laws governing foreign residents by adopting measures to improve control over immigration by non-Europeans. The measures envisaged included making the issuance of short-stay visas more systematically subject to proof of health insurance (a formality which would be required in the case of countries where the "migratory risk" was high); improving the identification of visa applicants from those countries; reforming the procedure for the issuance of the "certificat d'hébergement" (inter alia by requiring the person offering accommodation to give notice of the visitor's departure); restricting hospital care for illegal aliens to "emergencies" or to diseases likely to be contagious; and extending to 40 days the period of administrative detention for persons who entered France illegally.

39. The Special Rapporteur had criticized the discriminatory nature of the proposed measures. He has since been informed of the measures recently envisaged by the new French Government.[6] These include regularizing the status of certain categories of undocumented aliens[7] and drafting a preliminary bill on the entry and stay of foreign nationals. The preliminary bill includes provisions designed to make it easier for foreigners to stay in France and for foreign scientists, students and persons "with strong ties to France" (older

workers, foreigners married to French citizens, etc.), in particular, to obtain visas. Another bill, on nationality, currently being drafted by the Ministry of Justice would seek to revert to the jus soli system.

40. All these measures are still at the drafting stage. Even so, they reflect a trend that differs markedly from the approach envisaged by the previous Government. The Special Rapporteur welcomes this positive development and hopes that these measures will be improved upon and given material form in laws and regulations.

D. Communication from the Brazilian Government

41. In his previous report to the General Assembly, the Special Rapporteur referred to the dialogue established between the Government of Brazil and himself after the publication of his report on his mission to Brazil (E/CN.4/1996/72/Add.1). In the context of this continuing dialogue, he has received the following communication from that Government:

> "[1...] The Brazilian Government has been giving continuous priority to the implementation of its commitments relating to the struggle against racial discrimination and inequality of opportunities. In this sense, the first anniversary of the National Programme for Human Rights, commemorated on 13 May 1997, was the occasion for an evaluation of the results and progress achieved concerning the promotion and protection of human rights in general, and the promotion of the Black population in particular.
>
> "2. The integrated work of Government and civil society has given great dynamism to the Interministerial Working Group for the Promotion of the Black Population, created by Presidential decree of 20 November 1995, which was assigned the task of formulating public policies for the promotion of the rights of Afro-Brazilians. Among the achievements registered in this first year of work, the following are to be highlighted:
>
> - Creation of the National Programme to Combat Sickle-Cell Anaemia (a genetic disease affecting mainly individuals of the Negro race);
>
> - Inclusion of the item race/colour in death and birth certificates;
>
> - Inclusion of the item race/colour in the school census and in all statistical surveys in the field of education;
>
> - Submission of studies and proposals for the implementation of article 68 of the Temporary Constitutional Provisions Act concerning the granting of ownership titles to the occupiers of the remaining Quilombo lands, like the titles already issued in favour of the communities of Pacoval and Água Fria (state of Pará);
>
> - Proposal for programmes on TV Escola (the educational television channel) aimed at the revision of Brazilian history from the point of view of the African contribution to Brazilian social formation;

- Re-evaluation of textbooks distributed to students of primary and secondary schools all over the country; the re-evaluation exercise resulted in the exclusion of publications containing prejudices and formal errors, as well as discrimination or stereotypes based on race, colour or gender;

- Participation in the elaboration of the 'National Curriculum Parameters', under the aegis of the Ministry of Education.

"3. It is worth mentioning also the elaboration by the Ministry of Justice, through the National Archives and the National Secretariat for Human Rights, of a draft 'Guide on the sources for the history of the Black in contemporary society'. Knowledge of these sources will facilitate actions by Black entities in defence of their rights and the activities of the State in the establishment of public policies directed at the Black population. Equally important is the effort made by the Ministry of Justice, together with the Centre for Studies on Labour Relations and Inequalities, with the support of the European Union, in the elaboration of a project aimed at the promotion of a wide debate - especially among law operators - about the possibilities and limits of juridical norms in the struggle against racial discrimination and in ensuring equality of opportunities and treatment.

"4. The Federal Government has been supporting the activities of the Working Group for the Elimination of Discrimination in Employment and Occupation, set up in the Ministry of Labour by decree of 20 March 1996. The principal actions of the Working Group during its first year of existence may be summarized as follows:

- Convening of a tripartite meeting on the subject 'Implementation of policies aimed at diversity', with the participation of representatives of various corporations (São Paulo, 24 and 25 October 1996);

- Setting up of a subgroup in charge of extending the pilot experiment of the Ministry of Labour in the fight against discrimination to other organs and sectors of the public administration;

- The Ministry of Justice has been giving support to the Ministry of Labour in the development of the programme for the implementation of ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation;

- Development of projects for the promotion of citizenship and professional training, financed by the Fund for the Support of the Worker;

- Support for the dissemination of Convention No. 111 through interventions made on the occasion of events on discrimination, promotion of equality and human rights organized by different institutions (trade unions, municipalities, non-governmental organizations, Federal and state Governments).

"5. Concerning the dissemination of the International Convention on the Elimination of All Forms of Racial Discrimination, it is worth mentioning the publication of the tenth periodic report to the Committee on the Elimination of Racial Discrimination. This joint initiative by the Ministries of External Relations and Justice made possible the dissemination of knowledge about the rights guaranteed in that juridical instrument and contributed to raising awareness about the international obligations of Brazil in the matter. The dissemination of the Convention was helped through seminars held in different regions of Brazil, with the participation of diplomats and officials of the Ministry of Justice.

"6. As far as legislation is concerned, it must be noted that the National Congress has approved and the President has sanctioned a law which foresees a penalty of one to three years' imprisonment for those who commit a crime of racism by uttering insults of a racial nature or discriminating on grounds of race, ethnicity, colour, religion or nationality. The principal innovation introduced by this law is to characterize as a crime of racism insults or prejudice in labour or personal relations, thus widening the scope of the previous law on the subject which foresaw sanctions only for cases of racism involving the media and restrictions of access to public places on grounds of race.

"7. It should be mentioned also that Law No. 9.455 of 7 April 1997, defining the crime of torture, contains specific reference to the racial question, which demonstrates how the subject has been definitively incorporated in the national agenda. The reference is: 'Art 1 - The crime of torture is characterized when:

A person constrains another using violence or grave threat, with the infliction of physical or mental pain:

(...) c) for reason of racial or religious discrimination'."

42. The Special Rapporteur takes note of and commends the Brazilian Government for these measures. He is, however, concerned about the potential drawbacks of including a mention of race on school and birth certificates, as well as other documents, however laudable the original intent (affirmative action). The Special Rapporteur also continues to be concerned about the fate of indigenous peoples, with whom he had a number of working meetings during his mission to Brazil. He hopes to continue the dialogue with the Government on this matter and looks forward to receiving, at the earliest juncture, information about measures taken or envisaged in favour of these peoples.

E. Australia

43. As mentioned above (para. 11), the Special Rapporteur wrote to the Australian Government on two occasions to solicit a response to allegations contained in two communications which he had received in 1996. Since no reply was forthcoming, the Special Rapporteur requested and received permission from the Government of Australia to undertake a mission to that country in the near future. The Special Rapporteur expresses his appreciation to the Australian

Government for its cooperation and hopes to learn at first hand about the situation of Aborigines in particular, and the situation of foreigners, in Australia.

44. In the meantime, the Special Rapporteur has received information about an Australian Government initiative outlined in a speech[8] by the Prime Minister, Mr. John Howard, at the Australian Reconciliation Convention in Melbourne on 26 May 1997. The Prime Minister said in his speech:

> "This Convention is a unifying event. It is an occasion for positive commitment to the future and a common avowal of the destiny we all share as Australians. It is an occasion also for frank speaking, and there has been some today quite appropriately, and in the same spirit I intend to speak frankly, although I hope on all occasions respectfully.
>
> "Since the inception of the Council in 1991, the Coalition Parties have committed themselves to the reconciliation process and today, on behalf of the Liberal and National parties, I reaffirm that commitment.
>
> "At the heart of this reconciliation process among Australians lie three fundamental objectives:
>
> "The first is a shared commitment to raise the living standards and broaden the opportunities available to the most disadvantaged group in Australian society - and that is indigenous Australians - and that must be done as part of a broader commitment to providing equality of opportunity to all Australians;
>
> "A second objective is a realistic acknowledgement of the interrelated histories of the various elements of Australian society;
>
> "And a third is mutual acceptance of the importance of working together to respect and appreciate our differences and to ensure that they do not prevent us from sharing the future."

45. The Special Rapporteur welcomes this political commitment by the Australian Government. He encourages the Government to translate this commitment into concrete and effective action by adopting appropriate legislative or other measures.

V. CONCLUSIONS AND RECOMMENDATIONS

46. In his previous report to the General Assembly, the Special Rapporteur noted the alarming increase in manifestations of racism, racial discrimination, xenophobia and related intolerance. At the global level, the situation has improved very little. On the contrary, the use of new communication technologies, particularly the Internet, has led to new forms of racism and racial discrimination.

47. Despite the governmental, legislative or judicial measures taken or envisaged in some countries to combat racism and racial discrimination - measures which the Special Rapporteur welcomes - the situation in this area continues to be cause for concern and requires a more proactive approach at the national and international levels in order to stem the proliferation of these evils. The Special Rapporteur already made a number of specific recommendations on this matter in earlier reports. He takes this opportunity to reiterate them and once more urges that they be properly implemented.

48. As in his most recent report to the Commission on Human Rights (E/CN.4/1997/71), the Special Rapporteur would like to reiterate the recommendation which he made to the General Assembly at its fifty-first session:

(a) To convene, without further delay, a world conference on racism, racial discrimination and xenophobia and to include the question of immigration and xenophobia on the agenda; and

(b) To consider taking action at the international level, by beginning studies, research and consultations immediately, over the use of the Internet as a vehicle for racist and xenophobic propaganda.

Notes

[1] Chris de Stoop, Vite, rentrez le linge! L'Europe et l'expulsion des "sans-papiers", Paris, Actes Sud, 1996, pp. 134-137.

[2] Zones d'attente des ports, des aéroports et des gares ferroviaires: visites des associations habilitées (rapport 1996-1997), Paris, ANAFE, 1997, p. 38.

[3] Roma Rights (The Newsletter of the European Roma Rights Centre), spring 1997.

[4] Amnesty International, United States of America: Death Penalty Developments in 1996, doc. AI Index: AMR 51/01/97, March 1997.

[5] Address given by President Clinton in San Diego on race relations (extracts: diversity is vital, as is offering help to minorities, AXF/04) (3400), the White House, Office of the Press Secretary, San Diego, California.

[6] Libération, 26 August 1997.

[7] Circular of 24 June 1997 concerning reappraisal of the status of certain categories of undocumented aliens, Journal Officiel de la République Française, 26 June 1997, p. 9819.

As the present report was being drafted, the following news item appeared in the newspaper Le Monde on Tuesday, 23 September 1997 (p. 12):

"Demonstration in Paris calls for regularization of the status of undocumented aliens: On Saturday, 20 September in Paris, some 2,000 undocumented aliens and their supporters staged a march from the Place de la République to the Opéra, calling for regularization of the status of all undocumented aliens, repeal of the Pasqua/Debré laws, the release of persons imprisoned for non-possession of a residence permit, an end to deportations and the return of deportees. Numerous organizations and associations supported the demonstration ... According to the Ministry of the Interior, as of 31 August, the status of 1,000 undocumented aliens had been regularized, while 89,432 applications were pending in various prefectures. The deadline for submission of applications is 31 October."

[8] Press release from the Office of the Australian Prime Minister, 27 June 1997.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in the Islamic Republic of Iran

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by Mr. Maurice Danby Copithorne, Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran, in accordance with Assembly resolution 51/107 of 12 December 1996 and Economic and Social Council decision 1997/264 of 22 July 1997.

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Annex

INTERIM REPORT ON THE SITUATION OF HUMAN RIGHTS IN THE ISLAMIC REPUBLIC OF IRAN, PREPARED BY THE SPECIAL REPRESENTATIVE OF THE COMMISSION ON HUMAN RIGHTS IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTION 51/107 AND ECONOMIC AND SOCIAL COUNCIL DECISION 1997/264

Summary

In his earlier reports to the General Assembly and to the Commission on Human Rights, the Special Representative has noted that his function was to bring the status of human rights in the Islamic Republic of Iran into clear focus, providing at the same time an indication of areas in which progress is being made and areas in which it is needed. As he has said before, the Islamic Republic of Iran is a complex and dynamic society and, bearing in mind that space constraints impose a need to be selective, the Special Representative is faced with a considerable challenge.

Freedom of expression in the Islamic Republic of Iran has become the subject of increasing criticism in recent years. At least until the recent change in Government, the atmosphere could reasonably be characterized as repressive. On the other hand, in one of the many paradoxes of that society, there continued to be a lively discourse on many subjects, including that of freedom of expression itself. The Government has now declared substantial change in this area to be a major priority.

The status of women in the Islamic Republic of Iran has been the subject of wide and generally critical debate including, increasingly, within the country itself. While there had been proposals for introducing further harsh measures, there have now been promising indicators of change, such as the recent appointment of a woman as a Vice-President.

With regard to legal subjects, there remain a number of dark spots. The use of the death penalty has continued to rise sharply, despite the generally accepted conditions to be applied by those States that maintain the death penalty. Convictions for apostasy continue to be rendered occasionally by Iranian courts, despite the fact that no such crime is known in the Islamic Criminal Code. The sentence of stoning is provided for in the Code, and four cases of its use have been reported in the last 18 months.

There has been no progress on the issue of the fatwa against the British writer Salman Rushdie. There is also no improvement to report on the condition of the Baha'is in the Islamic Republic of Iran. Several outstanding court cases outside the country involving the murder of Iranian dissidents abroad have now resulted in convictions. In one case, a connection to the Iranian authorities was found to exist despite the denials of the Government.

Presidential elections were held in May 1997. Only four candidates were approved to run in the election, but a lively campaign ensued. It was generally considered that the voters had a choice, and that they opted for change. This resulted in a broadly if not uniformly held view that change would now occur and that significant improvement in the human rights situation in the Islamic Republic of Iran would follow. The new Government has made a number of policy statements that reflect a clear intention that this should happen.

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I. INTRODUCTION

1. This interim report is the second substantive report the Special Representative has submitted to the General Assembly. During the interim the Islamic Republic of Iran has gone through turbulent times, which have had an impact on the human rights situation in the country. There has been some progress and some backsliding, but in most areas the pace of change for the better has been imperceptible, or at least so modest as to represent little substantive improvement.

2. In the present report, the Special Representative has highlighted developments in a number of sectors that he considers worthy of note. Some represent recent activity in sectors of long-standing concern. Others are being brought forward for the first time. There are certainly many areas in which change is required in order to meet existing international norms and, the Special Representative would argue, to respect the freedom and dignity of the Iranian people. He has highlighted freedom of expression and certain legal subjects, as well as several of the subjects he reports on regularly.

3. A major event in the Islamic Republic of Iran during the period under review was the presidential election, which is reported on in greater detail below. Here, the Special Representative wants to draw attention to the potential implications of the election results for human rights in the Islamic Republic of Iran. Turning first to the 4 August inauguration speech of President Khatami, it is noteworthy from a human rights perspective that he devoted considerable attention to opening up to the people the discourse about government policy:

> "The Government must promote the culture and capacity for participation, evaluation, critique and reform. It must itself be the model for tolerance and take the lead in empowerment for the people."

4. The President also referred to the need to prevent any violation of the integrity, dignity and constitutional rights and freedom of individuals.

5. In subsequent statements, particularly, those entitled "political development policies" of the executive branches, emphasis was again placed on respecting human dignity and integrity; ensuring civil rights and freedom; defending public trials and the right to a lawyer; fostering an independent mass media; and fostering the principles of pluralism and diversity. The major ministries issued "objectives, policies and programmes" papers. Those of the Ministry of the Interior, the Ministry of Culture and Islamic Guidance and the Ministry of Information (Intelligence) reiterated the spirit of the President's statements in greater detail as applicable to those ministries. The Minister of Culture was quoted by a foreign journalist as saying, "I disagree with almost all the present practices in the Culture Ministry. We have to provide an atmosphere of creativity, tranquillity and freedom."

6. It is not the Special Representative's role to critique government policy statements. Nevertheless, in these particular circumstances, he believes it important to highlight the declaration of the intentions of the new Government

in most if not all the areas captured in the concept of human rights. He will watch with great interest to see how those policy statements are implemented, with particular reference to their positive impact on the status of human rights in the Islamic Republic of Iran.

7. Finally, the Special Representative wishes to refer to the question of another visit to the Islamic Republic of Iran on his part. He has been in touch with the Iranian authorities about such a visit for some time. In late August he was informed that, owing to the change of Government, there had not yet been an opportunity to consider extending an invitation to him. The Special Representative is hopeful that he will be accorded full cooperation in that regard.

II. THE SPECIAL REPRESENTATIVE'S ACTIVITIES AND SOURCES

8. On 9 April 1997 the Special Representative personally introduced his second report to the Commission on Human Rights (E/CN.4/1997/63). He returned to Geneva from 20 to 22 May and from 25 to 29 August 1997 in order to conduct a number of consultations, to participate in the fourth meeting of special rapporteurs, special representatives, experts and chairmen of working groups of the Commission on Human Rights, which took place from 21 to 23 May 1997, and to draft the present interim report to the General Assembly. En route from Geneva, the Special Representative made a stopover visit to London, a city with a major Iranian constituency, from 23 to 25 May 1997. While in Geneva, the Special Representative held consultations with representatives of the Government of the Islamic Republic of Iran, officials of the Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, officials of the Office of the United Nations High Commissioner for Refugees and representatives of several non-governmental organizations. He also received representations from interested persons concerning alleged human rights violations in the Islamic Republic of Iran.

9. In seeking to fulfil his mandate, the Special Representative has looked to many sources for information, including the Government of the Islamic Republic of Iran, other Governments, individuals, non-governmental organizations and the Iranian and international media. In Geneva, the Special Representative held interviews with representatives of several non-governmental organizations, among them Amnesty International, the Baha'i International Community, the Democratic Party of Iranian Kurdistan, the National Council of Resistance of Iran and the Organization for Defending Victims of Violence.

10. During the period mentioned above, the Special Representative also received written communications from the following non-governmental organizations: About Iran; Amnesty International; Article 19, International Centre against Censorship; Association of Iranian Political Prisoners in Exile; Association pour la défense des prisonniers politiques et d'opinion en Iran; Baha'i International Community; Comité iranien contre la répression et le terrorisme d'état; Committee for Defence of Liberty in Iran; Constitutionalist Movement of Iran; Cross-Connections International; Defenders of Islam in Iran; Democratic Party of Iranian Kurdistan; Democratic Union of Iranian Workers; Dra. Homa Darabi Foundation; Foundation for Democracy in Iran; Human Rights Watch/Middle

East; International PEN Writers in Prison Committee; Iranian People Fedaii Guerrillas; Ligue iranienne des droits de l'homme en exil; National Council of Resistance of Iran; Organisation for Defending Victims of Violence; Organization of Iranian People's Fedaian (Majority); Rainbow Anti-racist Organization; Supporters of the Iranian Muslim Nation; and World Organization against Torture.

III. FREEDOM OF EXPRESSION

11. A healthy society is one in which there exists freedom of opinion and expression and a tolerance of open discussion and dissent. This freedom is articulated in article 19 of the Universal Declaration of Human Rights as well as in article 19 of the International Covenant on Civil and Political Rights. In effect, the vitality of the society and of the State is promoted through a right vested in individuals to dissent from government policy or popular opinion and to express that dissent openly.

12. In the Islamic Republic of Iran, as the Special Representative has noted before, there are "islands of liberty", one of which tolerates lively debate about many public issues, including the freedom of expression itself. Most recently, according to a foreign news service, there has been a lively debate on the role of the clergy in Government and the limitations on the authority of the President. There are, however, boundaries to free expression, sometimes explicit and sometimes implicit. In the view of the Special Representative, it can be fairly said that the rights of the press and the media in general, the film industry, authors, publishers and bookstores appear in practice to be significantly circumscribed. Various means of official and unofficial control exist. Among them are the press tribunal, restricted access to newsprint, need for approval of book and film manuscripts, various licensing systems and unofficial strong-arm enforcers of their own view of religion and morality.

13. It was less than two years ago that the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Abid Hussain, visited the Islamic Republic of Iran and prepared a report for the Commission on Human Rights (E/CN.4/1996/39/Add.2). The Special Representative has decided to revisit the subject at this time because of recent developments in the Islamic Republic of Iran. The report of Mr. Hussain is the starting point for this discussion, and the Special Representative would particularly call attention to section II, Concluding observations, and section III, Recommendations, of that report. The latter contains a significant list of changes that need to be made by the Government of the Islamic Republic of Iran in order to meet international norms and, in particular, nourish a culture of free expression. The Special Representative would also draw attention to the sections of his own earlier reports on freedom of expression, namely, section VI, Freedom of the media, in E/CN.4/1996/59, and section IV, Freedom of expression, in E/CN.4/1997/63. In appendix II to the present report, the Special Representative notes some of what he views to be indicative recent incidents in the Islamic Republic of Iran that make it clear that the need for change remains urgent.

14. Finally, the Special Representative would take particular note of the case of Faraj Sarkouhi, the chief editor of the monthly magazine Adineh. The early

stages of this matter were noted in the report of the Special Representative to the Commission on Human Rights (E/CN.4/1997/63, para. 45). In June, Mr. Sarkouhi was reportedly charged with spying for a foreign country and attempting to leave the country illegally. The Special Representative requested information and made representation to the Government of the Islamic Republic of Iran on two occasions (see appendix I). There were international calls that the trial be held in public, and a question arose as to his freedom to have counsel of his choice. In mid-September, it was reported that Mr. Sarkouhi had been tried and convicted in camera of carrying out propaganda against the Islamic Republic of Iran. The propaganda was apparently the widely published letter dated 3 January 1997, in which he described his initial arrest and his mistreatment while in detention. He was sentenced to one year in prison less time already spent in detention. His family's lawyer stated to a foreign wire service that she had never been permitted to meet with him in jail nor was she allowed to attend the closed trial.

IV. LEGAL SUBJECTS

A. Executions

15. The Special Representative had occasion to report to the Commission on Human Rights earlier this year that the number of executions in the Islamic Republic of Iran in 1996 had reportedly at least doubled over that of 1995 (E/CN.4/1997/63, para. 27). The Special Representative pointed out that his request for official statistics in that regard had gone unanswered.

16. The Special Representative has now been presented with external reports indicating that the number of publicly announced executions for the period from January to September 1997 reached 137, a rate of increase that if continued to the end of the year would likely constitute a further doubling. In addition, there continue to be troubling reports of disappearances and deaths under suspicious circumstances.

17. In August 1997 there was a report on Iranian radio stating that a new law would "increase the seriousness of [drug] trafficking tenfold" and give judicial authorities "a free hand" to deal with drug traffickers. Public hanging also appears to be on the increase.

18. The Special Representative wishes to draw attention to resolution 1997/12 adopted by the Commission on Human Rights on 3 April 1997. In the resolution, the Commission, inter alia:

- Urged all States maintaining the death penalty to comply fully with their obligations under the International Covenant on Civil and Political Rights, notably not to impose it for any but the most serious crimes;

- Called upon all States that still maintained the death penalty to observe safeguards guaranteeing the protection of the rights of those facing the death penalty set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984;

- Called upon all States that had not yet abolished the death penalty progressively to restrict the number of offences for which the death penalty might be imposed;

- Called upon States that retained the death penalty to make available to the public information with regard to its imposition.

19. The Special Representative recalls the concerns about the use of the death penalty in the Islamic Republic of Iran that he recorded in his report to the Commission on Human Rights in February 1997 (E/CN.4/1997/63, paras. 28 and 29). Noting the apparent continuing sharp growth in the use of the death penalty, the Special Representative recommends that the Government, as a matter of urgency, undertake a programme to reverse this trend and, specifically, to comply with the four provisions of the resolution cited above.

20. Without in any way diminishing the worth of any person executed recently in the Islamic Republic of Iran, the Special Representative is compelled to single out the case of Mohammad Assadi for particular mention. Mr. Assadi, aged 68, was a lawyer in Tehran who had been in prison since 1993. He is reported to have been convicted of participating in a coup d'état plot in 1990 and having been a freemason and a member of the Lions Clubs International. He was condemned to death for those acts and executed on 9 August 1997.

21. The Special Representative made urgent representations about the Assadi case on 9 April 1997 seeking information, and on 20 May 1997 renewed a request for clemency (see appendix I). No answer was received to either representation. The Special Representative deplores the failure of the Government of the Islamic Republic of Iran to respond to his request for full details of the charges brought against Mr. Assadi and the conviction entered against him, and its refusal to grant clemency in a case that, according to the information available to the Special Representative, may have involved no serious criminal activity.

B. Apostasy and conversion

22. Apostasy seems to be a term not in wide currency in the world today. Its definition in one English-language dictionary is "renunciation of a belief or faith, especially religious". It is unclear to the Special Representative how many countries regard apostasy as an offence. In the Islamic Republic of Iran it appears to be used currently in two situations, one to describe the conduct of the British writer Salman Rushdie and the other as an offence of which adherents of the Baha'i faith and sometimes Christian Protestants are from time to time charged and sometimes convicted. To the Special Representative's knowledge, there are currently three persons - all Baha'is - standing convicted of apostasy.

23. There would appear to be no provision in codified Iranian law making apostasy a crime. The Special Rapporteur on the question of religious intolerance was told in December 1995 that "under the Civil Code, conversion was not a crime and that no one had been punished for converting" (E/CN.4/1996/95/Add.2, para. 21).

24. That, however, is not the end of the matter. Article 167 of the Iranian Constitution authorizes judges, in the absence of applicable law, to apply "authoritative Islamic sources and authentic fatwa". The head of the Judiciary, Ayatollah Yazdi, has said this includes a treatise declaring that "a national apostate will be caused to repent and in case of refusing to repent will be executed". A "national apostate" has reportedly been defined as an infidel who embraces Islam as an adult and later returns to infidelity. It is thus clear that a convert to Islam who subsequently reconverts exposes himself to prosecution and death, even though apostasy is not a codified offence in the Islamic Republic of Iran.

25. In the case of Zabihullah Mahrami, the January 1996 judgement in his first trial by the Revolutionary Court in Yazd found that he was a Baha'i at the age of maturity, later accepted Islam for a period of seven years and subsequently returned to the Baha'i faith. The text of this judgement is available. On that basis he was found to be an apostate and was sentenced to death. On appeal, it was held that the Revolutionary Court lacked jurisdiction, and the matter was sent back to be retried. He was apparently convicted again and sentenced to death, although the conviction judgement is not available.

26. Another Baha'i, Musa Talibi, after several trials and appeals was sentenced in Isfahan, on 18 August 1996, to death for apostasy. It was reported in January 1997 that the Supreme Court of the Islamic Republic of Iran had confirmed both the Talibi and Mahrami death sentences. In February 1997, an external wire service reported from Tehran a statement by the head of the Revolutionary Court for the province of Tehran that the two men had been convicted of espionage and that he had denounced as false and fallacious reports that the men were convicted because of their religion. The Special Representative made urgent representations on behalf of both individuals on 3 February 1997 (see appendix I).

27. A third Baha'i, Ramazan-Ali Zulfaqari, had earlier been condemned to death for apostasy. He was reportedly later released from prison, but the apostasy charge may not have been resolved.

28. The Special Representative considers that the right to change one's religion is a clearly established international human rights norm, as articulated in the Universal Declaration of Human Rights (article 18), the International Covenant on Civil and Political Rights (article 18, para. 2), the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (article 1, para. 2) and in the general comments on this subject by the Human Rights Committee (General Comment 22 (forty-eighth session), para. 5, of 20 July 1993 (HRI/GEN/1/Rev.1)). In his 1996 report on the Islamic Republic of Iran (E/CN.4/1996/95/Add.2/para. 116), the Special Rapporteur on the question of religious intolerance concluded:

> "Likewise, with regard to proselytism, conversion and apostasy, the Special Rapporteur reaffirms the need to respect internationally recognized standards in the field of human rights, including freedom to change one's religion and freedom to manifest one's religion or belief, either individually or in community with others and in public or private, barring necessary restrictions provided for by law."

29. The Special Representative notes that in the past, senior officials of the Islamic Republic of Iran have attempted to distinguish between the act of private worship, which is permitted, and more public acts such as teaching, forming assemblies and working with the administration of the Baha'i community, which were forbidden on the grounds that those were hostile and conspiratorial acts that were criminal in nature. More recently, as the Special Representative has recorded, senior officials from time to time declare that no one is convicted in the Islamic Republic of Iran on the grounds of religion, and that Baha'ism is not a religion but "a web of espionage activities". In the view of the Special Representative, the publicly known facts in the Mahrami and Talibi cases do not bear out those assertions.

30. The Special Representative urges the Government of the Islamic Republic of Iran, in recognition of the international human rights norm referred to above, to recognize fully the rights of the individual as set out in articles 19, 20, 22 and 23 of the Constitution of the Islamic Republic of Iran, to set aside the convictions described above and to take appropriate steps to prevent future prosecutions for acts of religious conversion, whether or not they be categorized as apostasy.

C. Torture or cruel, inhuman or degrading treatment or punishment

31. The Special Representative is deeply concerned at the continuing reports of the use of cruel, inhuman or degrading treatment or punishment in the Islamic Republic of Iran, conduct banned by the Universal Declaration of Human Rights (article 5), the International Covenant on Civil and Political Rights (article 7), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 16). This is an area that requires urgent reform in terms of both law and practice in order to meet international human rights norms. In the present report the Special Representative will address perhaps the most abhorrent of such practices, that of stoning.

32. The Special Representative notes that article 82 (b) of the Islamic Criminal Code provides that adultery by a married woman shall be punished by stoning to death. Information reaching the Special Representative suggests that stoning has been occurring from time to time since 1979. Four cases of such punishment in the past 18 months have come to the attention of the Special Representative:

- An Iranian magazine reported in its July 1996 edition that Shasin Soltan-Moradi and Mohammad-Ali Hemmati were stoned to death in June 1996 in Orumiyeh;

- An Iranian daily reported on 13 July 1997 that Changiz Rahimi, son of Jaafar, was sentenced to stoning for several offences, including adultery;

- An external media source reported on 20 April 1997 that a young woman in Sanandaj, Shahgol Zamani, had been stoned to death that week;

- An external wire service story from Tehran of 12 August 1997 recounted a story appearing in a Tehran newspaper about a 20-year-old woman in Boukan who had been sentenced to stoning for adultery. The sentence had been carried out, but the woman had apparently survived the ordeal.

33. It may be replied that stoning happens very rarely in the Islamic Republic of Iran and certainly not in the major cities. The Special Representative believes that for it to happen at all is unsustainable both legally and morally. The fact that it is provided for in the Islamic Criminal Code does not make it a "lawful sanction" but, in the view of the Special Representative, serves only to encourage recourse to such punishment. The Special Representative would note the most recent condemnation of cruel, inhuman or degrading punishment of the Commission on Human Rights, which is resolution 1997/38, adopted on 11 April 1997.

34. In the view of the Special Representative, there is no doubt that stoning is a cruel, inhuman or degrading punishment, as discussed in the international instruments mentioned above. The Special Representative urges the Government of the Islamic Republic of Iran to remove article 82 (b) from the Islamic Criminal Code and to undertake a policy of actively suppressing recourse to such conduct throughout the country.

V. THE STATUS OF WOMEN

35. The Special Representative has noted in the past, as indeed has his predecessor, that the system of governance in place in the Islamic Republic of Iran, including both its laws and its policies, does not recognize the equality at law of men and women, and that it frequently tolerates discrimination against women by private groups. Moreover, some senior members of the governing circles continue to incite violence in support of discriminatory conduct against women.

36. The Special Representative has also noted that in 1997 there is evidence of a lively discourse under way in the Islamic Republic of Iran about the role of women in that society. He has also noted what he has chosen to characterize as "straws in the wind", which may suggest the prospect of change. While he continues to be optimistic in this regard, little has come to his attention since his report to the Human Rights Commission earlier this year (E/CN.4/1997/63) that would support the proposition that sustained progress is now under way. He notes, for example:

- The reports in the Iranian media in January 1997 that hospitals were to be segregated on the basis of gender;

- The long statement by the Head of Branch 43 of the Martyr Ghoddousi Judicial Affairs Centre, entitled "Citizens combat against offensive of the West from the viewpoint of the law", which appeared in the Iranian daily Re'salat in three parts in February and March 1997, and which, among other things, provided for imprisonment of up to 12 months, fines and flogging up to 74 lashes for some offences relating to the dress code;

- The announcement carried in a Tehran daily on 28 August 1997 of a new programme entitled, "Extension of the culture of chastity", which would impose stricter veiling requirements.

37. On the other hand, the new President of the Islamic Republic of Iran has appointed a woman as one of eight Vice-Presidents. Several others were reported to have been candidates for ministerial appointments. The Special Rapporteur has also noted that the discourse about the role of women continues. For example, a report was carried in a Tehran daily on 25 August 1997 of an interview with three women holding prominent positions who spoke of women being precluded from decision-making in areas affecting them, such as education and medicine, of women's condition as being deprived and oppressed and of the many obstacles and barriers blocking the advancement of women according to their competence. An article in a Tehran daily on 5 August 1997 reported the complaints of a number of married women concerning the unfair treatment they had received from judicial authorities in the context of matrimonial disputes.

38. The Special Representative urges the Government of the Islamic Republic of Iran to attach high priority to reforming the status of women, not only to bring itself into compliance with international human rights norms, but also out of respect for the dignity of the individual.

VI. THE FATWA AGAINST SALMAN RUSHDIE

39. As provided in his mandate, the Special Representative has referred to the fatwa against Salman Rushdie in each of his previous reports to the General Assembly and to the Commission on Human Rights.

40. The Special Representative notes that in February 1997 an Iranian charitable foundation increased its reward to $2.5 million for the death of Mr. Rushdie. Further, the head of the foundation, who has personal links with the Government, was quoted in the Iranian press as saying that the reward was now available to non-Muslims. The Special Representative would also note that the efforts by certain Governments over recent years to reach an accommodation with the Government of the Islamic Republic of Iran on this matter have been unsuccessful.

41. The Special Representative would once again record his own condemnation of the threat upon the life of Mr. Rushdie and state that he shares the view of those who judge the offered reward to be an incitement to murder. The Special Representative does not accept the view that in circumstances such as these, the Government can disassociate itself from the decisions of an organization such as the foundation concerned on the grounds that it is, formally at least, a non-governmental entity.

42. The Special Representative urges the Government of the Islamic Republic of Iran to attach a high priority to this issue and to approach its settlement in a fresh and positive manner.

VII. THE SITUATION OF THE BAHA'IS

43. The Special Representative has continued to receive reports of cases in which the human rights of Baha'is have been breached and of situations of discrimination and even of persecution against the members of this religious community, including extrajudicial executions, arbitrary detentions, refusal of entry to universities, confiscation of property and dismissal from employment.

44. According to the information received by the Special Representative (see appendix III), two Baha'is were killed in July 1997, and those responsible for the deaths were enjoying impunity. Twelve Baha'is continue to be held in Iranian prisons. In January 1997 the Supreme Court confirmed the death sentences imposed for apostasy against two Baha'is, Mr. Talibi and Mr. Mahrami, and another Baha'i has been charged with the same offence (see paras. 25-27 above). Being active in the Baha'i community and gathering for Baha'i meetings are in practice considered offences. Short-term detention of Baha'is, disregard of their private ownership of property, eviction from and confiscation of their houses and destruction of their holy places continue to be reported.

45. In his previous reports the Special Representative has made reference to the complaints received regarding the denial of employment, pensions and other benefits, access to higher education and civil rights and liberties. The Special Representative reiterates his opinion that the implementation of the recommendations contained in the report submitted to the Commission on Human Rights at its fifty-second session by the Special Rapporteur on the question of religious intolerance on his visit to the Islamic Republic of Iran (E/CN.4/1996/95/Add.2) would constitute an important first step in the improvement of the situation of Iranian Baha'is.

46. Specifically, the recommendations concerned:

(a) The urgent revision of the death sentences passed on Baha'is and the promulgation of amnesties or other appropriate measures to prevent the enforcement of the penalties imposed;

(b) The lifting of the ban on the Baha'i organization to enable it to organize itself freely through its administrative institutions;

(c) The end to discrimination in access to higher education or to employment in the Administration;

(d) The return of confiscated personal and community property;

(e) The reconstruction of the places of worship destroyed, or at least, the establishment of compensatory measures in favour of the Baha'i community;

(f) The lifting of restrictions regarding the burial and honouring of the dead;

(g) The elimination from passport application forms of the question on religion in order to guarantee the freedom of movement.

47. The Special Representative recommends that the Government of the Islamic Republic of Iran, as a matter of priority, proceed to implement the recommendations of the Special Rapporteur summarized above.

VIII. OTHER IMPORTANT MATTERS

A. The Islamic Human Rights Commission

48. The Special Representative has reported on the establishment of the Islamic Human Rights Commission by the Government of the Islamic Republic of Iran and has referred to its reports about its activities. The Special Representative had a meeting in Geneva in April 1997 with a group of senior Iranian personages, including several who were members of the Commission. He followed up this meeting with a letter to the Executive Secretary of the Commission. In subsequent communications to the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva, the Special Representative requested more specific information about the work of the Commission and particularly its achievements in terms of successful interventions in response to allegations of human rights violations. The Special Representative has not received direct replies to those requests, but has received copies of several recent publications of the Islamic Human Rights Commission.

49. One of the publications, Appeals (No. 21, February 1997) sets out in some 20 pages a selection of seven allegations of violations in countries around the world other than the Islamic Republic of Iran that have been brought to the attention of the Commission. Another publication, A Brief on the One-Year Operation of the Islamic Human Rights Commission, January 1996-January 1997, contains a section on the Commission's human rights activities in the Islamic Republic of Iran. In addition to noting certain structural changes within the Commission, the report set out certain statistics, including the following:

- Complaints received: 1,300
- Complaints found to have no probative value: 7 per cent
- Complaints found after investigation to have no merit: 14 per cent
- Complaints that "required legal advice and necessary guidance": 42 per cent

50. The Report goes on to say:

> "In order to persuade the courts to have due cooperation with the Commission and to send reports requested, several meetings have been held with the respective judicial authorities ... It may be noted that in most cases the Commission received good cooperation of the courts ..."

51. The Report further notes that the Commission:

> "has had periodic and regular visits to prisons, judicial centres, executive centres and the police, and has effectively conducted investigations whenever required into an individual complaint".

52. The Special Representative would note that the President and several members of the Islamic Human Rights Commission itself and its subcommittees are current or former senior figures or officials in the Government. Whether the Commission has significant freedom of action remains to be seen. In that regard, the Special Representative recommends that the Commission move quickly to begin publishing a detailed description of the types of complaints it is receiving, of the interventions it is making and of the success it is having in reversing the conduct that gives rise to the complaints.

53. The Special Representative notes the recent statement of the Commission Secretary that the Commission will act as a bridge between the people and the Government to realize the objectives of the new President of the Islamic Republic of Iran. The Special Representative will follow with great interest the progress being made in that regard.

B. Violence outside the Islamic Republic of Iran

54. In his interim report to the General Assembly at its fifty-first session (A/51/479 and Add.1) and in his report to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/63), the Special Representative noted a number of incidents of extraterritorial violence against Iranians. Although the Government of the Islamic Republic of Iran frequently denied involvement in any of those incidents, in some of the resulting legal proceedings in foreign courts a strong connection to that Government was asserted.

55. According to Press Release No. 38/97 issued by the Department of Justice of the State of Berlin on 10 April 1997, a Berlin court found four persons guilty of the assassination on 17 September 1992 of a group of four leaders of the Democratic Party of Kurdistan-Iran, headed by Sadegh Sharafkandi, in Berlin's Mykonos restaurant. The two main suspects in the case, Kazem Darabi, a 38-year-old who claimed to be an Iranian agent and a former member of the Pasdaran, and Abbas Rhayel, a Lebanese member of Hezbollah, were sentenced to life imprisonment. Another two Lebanese nationals received sentences for complicity of 11 years and of 5 years and 3 months, respectively. A fifth suspect was cleared. According to the press release, the court's oral findings also included the following statement: "The evidence has revealed the decision-making procedures within the Iranian leadership which in the final analysis have led to the liquidation of opposition politicians abroad". According to German wire reports, an arrest warrant was issued for Ali Fallahian, the former Information (Intelligence) Minister, for having played a supervisory role in the attack.

56. The Government of the Islamic Republic of Iran rejected the ruling as unjust, biased and influenced by a propaganda campaign against the country. It

stated that the killings were the result of in-fighting within the Kurdish opposition.

57. The Special Representative was provided with a copy of the verdict issued on 24 January 1997 by the seventh Criminal Court of Istanbul, Turkey, headed by Judge Iyhan Onal, condemning Reza Barzegar Massoumi, an Iranian citizen born in Orumiyeh, to 32 years and 6 months of imprisonment with hard labour for his participation in the premeditated murder of Zahra Rajabi (also known as Maryam Javedan Jokar) and Ali Panah Moradi, two members of the People's Mojahedin Organization of Iran. Mr. Massoumi was found guilty of using his acquaintance with the victims to open the door of their apartment to the murderers. According to the verdict, the accused stated in his confession that he had acted under instruction of the Iranian intelligence service, specifically of the agents Sa'eed Choobtrash (Asghar), Rahim Afshar (Rassoul), Haj Ghassem (Zargar-Panah) and Jalal (Mohsen Kargar-Azad), who planned and committed the murders carried out on 20 February 1996 in the Fateh suburb of Istanbul.

58. The Special Representative was also informed of several attacks against Iranian Kurdish refugees in the Iraqi province of Suleimania, particularly against members of the Democratic Party of Iranian Kurdistan, allegedly committed by persons working for the Iranian Government. Such attacks reportedly took place in early April 1997, 24 June 1997 and 14 and 19 August 1997 and resulted in 85 victims, including both dead and wounded. On 14 August 1997, Qaleb Alizadeh and Anjad Mowlaii, two members of the Democratic Party of Iranian Kurdistan, were murdered in the centre of Suleimania. A resident of the city was also killed in the attack, and four other residents were wounded. On 19 August 1997, Saeed Moradi, Ali Zokaleh and Isma'il Namaki were killed during the armed attack against the bus in which they were travelling towards Suleimania. Nine other members of the Democratic Party of Iranian Kurdistan were wounded. Agents of the Islamic Republic of Iran were alleged to be responsible for both attacks.

59. According to foreign wire reports, a Bangkok criminal court had convicted Hossein Dastgiri, an Iranian citizen, of murder and of conspiring to set off a bomb at the Israeli embassy in Bangkok in 1994, and had sentenced him to life imprisonment. The Special Representative was informed that the Islamic Human Rights Commission was seeking to improve his conditions of detention.

60. To the Special Representative's knowledge, the Berlin verdict is the first occasion in which a foreign court has clearly attributed responsibility for the assassination of Iranian opposition figures abroad. The Special Representative cannot ignore the finding that persons in the employ of the Government of the Islamic Republic of Iran, including in one case very senior members of the Government, were directly or indirectly involved and were found to be responsible for those acts. While noting the denials of the Government of the Islamic Republic of Iran, the Special Representative is bound to view the court decision as a finding of substantial credibility. He condemns such acts and calls upon the Government to denounce such violence and to forswear direct or indirect involvement in it.

C. The situation of certain religious minorities

61. In previous reports, the Special Representative has referred to the condition of religious minorities in the Islamic Republic of Iran. In the present report, the Special Representative wishes to refer specifically to the Sunnis, of which there are an estimated 12 to 15 million in the Islamic Republic of Iran. Many of the ethnic minority groups in the Islamic Republic of Iran are in whole or in part Sunni Muslims. The great majority of Iranian Kurds, Baluchis and Turkmens are Sunnis. In general, the Sunnis inhabit the areas closer to the borders of the Islamic Republic of Iran, although there are reportedly close to 1 million Sunnis in Tehran.

62. Sunni activists state that they, along with other religious minorities, are denied by law or practice access to such government positions as cabinet minister, ambassador, provincial governor, mayor and the like. They allege the destruction of Sunni schools and mosques and the imprisonment, execution and assassination of Sunni leaders. There are, in addition, other specific allegations.

63. While some of this information may be difficult to corroborate, the Special Representative is left with the clear impression that the right of freedom of religion is not being respected with regard to the Sunni minority. In the coming months, the Special Representative will be pursuing enquiries with the Government about the allegations and looks forward to its cooperation in that regard.

D. Democracy

64. Presidential elections were held in the Islamic Republic of Iran on 23 May 1997. A total of 238 individuals had applied for permission to run in the election, including 9 women; 4 were ultimately approved by the Guardian Council. Iranian and foreign press reports seem to have uniformly characterized the debate in the final weeks as open and lively. Many described the election as offering a real choice. The winner, Mohammad Khatami, was reported to have received some 21 million of the 31 million votes cast. There were apparently no significant complaints of election irregularities, nor was there any annulment of election results as there had been after the 1995 Majiles elections.

IX. CORRESPONDENCE WITH THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

65. The correspondence between the Special Representative and the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva during the period from February to August 1997 is set out in appendix I to the present report. It consists in part of requests for information on individual cases. Also during the period, the Special Representative sent to the Government of the Islamic Republic of Iran either in his own name or jointly with special rapporteurs, a number of urgent communications referring to individual cases. The Special Representative appealed to the Iranian Government to ensure that those affected benefited fully from all the internationally

recognized safeguards, particularly those provided for in the International Covenant on Civil and Political Rights. In some cases other international instruments were involved, including the safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the Economic and Social Council in its resolution 1984/50 of 25 May 1984, the Convention on the Rights of the Child, adopted by the General Assembly in its resolution 44/25 of 20 November 1989, and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), adopted by the Assembly in its resolution 40/33 of 29 November 1985.

66. The Special Representative is concerned at the low rate of response by the Government of the Islamic Republic of Iran and in some cases at the unhelpful answers. He plans to discuss the problem with the Iranian authorities in the context of improving cooperation.

X. CONCLUSIONS

67. In the present and previous reports to the General Assembly and to the Commission on Human Rights, the Special Representative has attempted to identify at least some of the areas in which improvement was being made or at least to note the existence of 'straws in the wind' suggesting that improvement could be on the way. He has also attempted to identify some of the areas in which any sign of improvement was hard to discern; indeed, backsliding seemed to be an accurate description. He has in the present report noted a number of the areas falling into the latter category, in each of which he has made recommendations.

68. Perhaps the most significant development of the period under review was the election of the new President and the very real prospect that the Islamic Republic of Iran is now in a position to move forward in matters concerning the freedom and dignity of its citizens. The areas highlighted in the report would be an excellent agenda for change - change which is long overdue. The Special Representative is all too aware, however, that the constraints of power often temper if not defeat the promises of an election. In the case of the Islamic Republic of Iran, the people do not deserve to wait any longer. The Special Representative will watch developments with great interest.

APPENDIX I

Correspondence between the Government of the Islamic Republic of Iran and the Special Representative

1. On 24 January 1997 the Special Representative and the Special Rapporteur on torture transmitted to the Minister for Foreign Affairs of the Islamic Republic of Iran a joint urgent appeal requesting that the right to physical and mental integrity of Hojjatoleslam val Muslimin Sheikh Mohammad Amin Ghafoori, his wife and Hojjatoleslam val Muslimin Sayed Hossein Fali be protected. Both men were said to be followers of the Grand Ayatollah Shirazi and were arrested on 14 January 1997 in Qom. There has been no reply.

2. On 3 February 1997 the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative sent to the Minister for Foreign Affairs of the Islamic Republic of Iran a joint urgent appeal on behalf of Zabihullah Mahrami and Musa Talibi, who were sentenced to death reportedly on the basis of their religious beliefs, particularly because of their adherence to the Baha'i faith. There has been no reply. In late January 1997 reports were received that the Supreme Court of the Islamic Republic of Iran had confirmed their death sentences on charges of apostasy.

3. The Special Representative sent to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva, on 11 February 1997, a letter requesting information on the situation of Faraj Sarkouhi, editor of Adineh, a literary magazine, and his brother Ismail, who were arrested on 27 January 1997 in Tehran. It was alleged that their arrests were in connection with a letter from Faraj Sarkouhi dated 3 January 1997 denouncing his mistreatment during an earlier detention and with their signatures on an open letter of 1994 addressed to the President of the Republic calling for greater freedom of expression. On 7 March 1997, the Permanent Representative replied to the letter of the Special Representative giving information provided by the relevant authorities in Tehran (the text of the letter is provided in appendix IV). On 2 July 1997 the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on the promotion and protection of the right to freedom of opinion and expression and on the independence of judges and lawyers, along with the Special Representative, sent a joint urgent appeal to the Minister for Foreign Affairs of the Islamic Republic of Iran requesting a clarification of the circumstances of the arrest and detention of Mr. Sarkouhi and for an assurance that his rights would be guaranteed. On 16 July 1997 the Government replied with information that Mr. Sarkouhi had been arrested on 2 February 1997 on charges of espionage and attempting to leave the country illegally, that he had neither been tried nor convicted and that he enjoyed and will enjoy all legal rights in conformity with due process of law, including the right to a fair trial and to a defence lawyer (the text of the letter is provided in appendix IV).

4. On 20 February 1997 the Special Representative sent to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva a letter requesting information on the arrest in March and April 1996 of

32 women in the eastern and western provinces of Azerbaijan who were said to remain in detention without being charged or tried. There has been no reply.

5. On 25 February 1997 the Special Representative sent a new letter to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva appealing to the Government to ensure that the right to physical and mental integrity of 13 persons arrested in mid-November 1996 in eastern and western Azerbaijan would be protected. Those arrested were said to be sympathetic to the Azeri nationalist cause. There has been no reply.

6. The Special Representative sent to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva a letter dated 12 March 1997 requesting information on the situation of Abbas Nava'i-Roshandel, the place of his detention and the basis for his arrest. By a letter dated 20 June 1997, the Permanent Representative advised that the Iranian police had not found any record of his arrest or detention (the text of the letter is provided in appendix IV).

7. On 9 April 1997 the Special Representative sent a letter to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva appealing to the Government to consider, in the event that all legal remedies had been fully exhausted, granting clemency to Mohammad Assadi, a lawyer at the Tehran bar, aged 68, sentenced to death on charges that appeared to be political. The Special Representative also requested information as to the wording of and the exact charges brought against Mr. Assadi and the conviction entered against him. By a letter dated 20 May 1997, the Special Representative reiterated his appeal to the Iranian Government to consider urgently granting clemency to this person and to investigate allegations that Mr. Assadi had not received any medical treatment during his detention and that his trial had been unfair. No response was received.

8. On 9 April 1997 the Special Representative requested to be informed of the results of the investigation into the death of Ebrahim Zalzadeh, a writer and journalist, aged 49, whose corpse was found on 29 March 1997 with multiple stab wounds to the chest. Mr. Zalzadeh was the editor of the monthly magazine Me'yar and the director of the publishing house Ebtekar. By a letter dated 14 August 1997, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva informed the Special Representative that the case was under investigation by the police and the judiciary, and that Mr. Zalzadeh's death had been caused by a sharp-pointed object pierced into his heart (the text of the letter is provided in appendix IV).

9. The Special Representative sent a letter to the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva on 16 April 1997 requesting information regarding an incident of poisoning of 60 Iranian Kurdish refugees in the Bazian camp in Iraq, allegedly committed by Iranian agents. By a letter dated 5 June 1997, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva stated that his Government categorically rejected such allegations, adding that since the alleged incident had occurred in the territory of Iraq, it was impossible to acquire any information (the text of the letter is provided in appendix IV).

10. The Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative sent, on 14 July 1997, a joint urgent appeal to the Iranian Minister for Foreign Affairs requesting the Government to ensure the right to life and physical integrity of Hossein Dowlatkhah, a 58-year-old businessman sentenced to death by a Revolutionary Court in Tehran on charges of swindling investors, corruption and embezzlement, and to flogging for organizing "lavish parties" with drugs. His appeal to the Supreme Court had been rejected. There has been no reply.

APPENDIX II

A selection of recent reports illustrating constraints against freedom of expression in the Islamic Republic of Iran

1. In January 1996 Abbas Maroufi, the editor of the magazine Gardoon, was sentenced to 35 lashes and 6 months' imprisonment after being convicted of publishing lies, of insulting the leader of the Islamic Republic of Iran and of publishing poems deemed immoral. Mr. Maroufi subsequently left the Islamic Republic of Iran, apparently without the sentence being implemented.

2. In March 1996 the newspaper Salam was reported by the Islamic Republic News Agency to have been banned for two days because of a story it had published about a member of the leader's office having taken part in the Guardian Council's session on evaluating eligibility of the candidates.

3. In May 1996 a Farsi-language newspaper in London published an interview with the screenwriter Bahram Beizaie in which he talked of the difficulty in getting approval for his scripts. While in the past scripts had been rejected or approved, the response now was more often no response, or requests for "small changes", such as changing a leading role from a female to a male part. Mr. Beizaie said that in some cases he had been obliged to deny that a script was his work so that a film could be made and others could be employed. Mr. Beizaie suggested that for every 60 films made in the Islamic Republic of Iran each year, there were at least 60 prevented from being made.

4. In June 1996 a novelist, Houshang Gholshiri, said in an interview with a German newspaper that "we writers today live in fear and terror". He referred to the attack on the Morgh-e-Amin bookstore in August 1995 and the suspicious death of Ahmad Miralaiee.

5. In August 1996 the editor Abbas Maroufi described in a foreign publication the pressure that writers and editors were placed under. He described his own experience with a press jury. He noted that no private claimant had accused him of a private crime but he found himself facing private complaints of his having committed public crimes. He noted that of the some 600 journals printed in the Islamic Republic of Iran, fewer than 10 could be considered to provide independent coverage of cultural, social and political issues.

6. In November 1996 Salam reported that screening permits had been cancelled for two films by Mohsen Makhmalbaf, Gabbeh and Bread and Flower Pots (the latter released in English under the title Moment of Innocence). The films were said to have previously received all necessary licenses but then to have become "captive to factional dogmas".

7. In November 1996 a Farsi-language newspaper in London reported that Ali Larijani, head of the radio and television authority, had defended the television programme "Hoviyat", which had been heavily criticized for its harsh attacks on Iranian intellectuals. Mr. Larijani was quoted as saying, "should we in the Islamic Republic sit quietly for you to write whatever you want to? Are these so-called science, wisdom and freedom and scientific discussion? These

are insults to the whole system. Therefore the main argument is ... on destruction, destruction of the Islamic Republic and the Islamic State".

8. In December 1996 an exiled writers' association announced the arrest of Mehdi Parham, a well-known writer and translator, and the disappearance of Mohammed Hossein Tahmasbpour, a well-known Azeri-language poet.

9. In January 1997 a foreign media source reported that the Association of Iranian Writers in Exile had announced the arrest in December 1996 in Mashad of the writer and researcher Kalimallah Tavahhadi, who was working on a series of volumes on the Kurds.

10. In March 1997 a foreign radio source reported that a cultural quarterly, Zendeh Roud, was suspended without explanation.

11. In April 1997 a foreign wire service reported from Tehran that the body had been found of Abraham Zal Zadeli, the editor of the literary monthly Me'yar, who had been arrested by security agents the previous month.

12. In April 1997 Salam reported that magazine editor Mohammad Sadeq Javadi Hessar had been banned from all journalistic work for 10 years after being convicted of causing public confusion and provoking antagonism between universities and seminaries. The conviction was to be appealed.

13. In May 1997 the Kayhan daily reported that Aftabgardan, a children's magazine, had been fined and banned under articles 22 and 514 of the Islamic Criminal Code for an article critical of television coverage of the presidential election campaign.

14. In June 1997 a foreign news service published an account by Houshang Gholshiri of the humiliating conditions under which the signatories of the 1994 petition of 134 writers had been interrogated by Iranian security officials.

15. In July 1997 the Iran daily reported that the press court had found the publisher of the monthly Sobh guilty of insulting the Minister of Posts and Telegraphs and had imposed a fine and a one-month suspension.

16. In August 1997 a foreign wire service in Tehran reported new rules promulgated by the Ministry of Culture and Islamic Guidance requiring that Iranian producers intending to sell international screening rights to foreign distributors submit their contracts for ministerial approval.

17. In August 1997 a foreign radio service reported that Mr. Gholshiri had been prevented from leaving for Germany to meet with his publishers and translators.

18. In August 1997 the Tehran offices of the monthly Iran-e Farda were reported to have been attacked by unidentified individuals. The deputy Minister for Culture and Islamic Guidance condemned the attack.

APPENDIX III

Information on the situation of the Baha'is

1. The Special Representative was informed that two Baha'is were killed in July 1997. Masha'llah Enayait, a 63-year-old Iranian Baha'i, died on 4 July 1997 after being severely beaten while in custody in prison in Isfahan. He was arrested under circumstances that are not clear during a visit to his native village of Ardistan to attend a Baha'i meeting. It was reported that on his death certificate, under the item "cause of death", the doctor had entered "will be known later". Another Baha'i, Shahram Reza'i, a conscript in the army, was shot in the head on 6 July 1997 by his superior officer on a military base close to Rasht. The officer concerned, who reportedly was responsible for weapons training, maintained that the bullets were fired in error and was released after a few days. It was said that because the dead soldier was a Baha'i, the court excused the officer from paying the blood money normally required in such cases.

2. The Special Representative was informed that 12 Baha'is continued to be held in Iranian prisons allegedly because of their beliefs, among them Bihnam Mithaqi and Kayvan Khalajabadi, who were visited by the Special Representative in Evin prison in February 1996. The Special Representative was informed that after his visit the Supreme Court confirmed the death sentences against them. They are reported to have written to the public prosecutor asking for the verdict to be rescinded.

3. The death sentences imposed for apostasy against Musa Talibi and Zabihullah Mahrami were also confirmed by the Supreme Court in January 1997, according to the information conveyed orally to their relatives during prison visits. The Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, has sent a joint urgent appeal to the Government of the Islamic Republic of Iran concerning those cases.

4. Arman Damishqi and Kurush Dhabihi, arrested for misconduct in early 1996, were reportedly told that they must recant their faith in order to be freed. They refused to recant and were sentenced to eight years' imprisonment. It was further stated that Muslims who were arrested along with them for the same offence were later released.

5. The Special Representative was informed that two Baha'is who were serving a three-year sentence, Mansur Haddadam and Kamyar Ruhi, had been convicted of being active in the Baha'i community, of gathering for Baha'i meetings in a private house and of working against the security of the country by organizing a Baha'i children's art exhibition.

6. Other Baha'is who are being held in Iranian prisons are Jamal Hajipur and Mansur Mihrabkhani, arrested on 19 May 1997 in Bujnurd, Nasir Iqani, arrested in August 1997 in Simnan, and Hushang Mazlumian, arrested in August 1997 in Aliabad Gorgan.

7. The practices of arresting Baha'is and detaining them for short periods and of summoning Baha'is to Ministry of Intelligence agencies on various pretexts were also denounced. It was said that during the past three years, nearly 200 Baha'is were arrested and detained for periods ranging from two days to six months.

8. The Special Representative was informed that a Baha'i holy place in Orumiyeh was demolished in December 1996 in order to construct a new building. This property belonged to a Baha'i organization, all of whose properties had been confiscated. It was in the possession of the Revolutionary Guards.

9. The Special Representative was also informed that the private ownership of property by Baha'is continued to be generally disregarded. It denounced the recent attack on two houses owned by Baha'is, who were evicted and had their furniture and belongings put out on the street. Actions to confiscate the property of 10 other families were also reported. In addition, it was alleged that the majority of Baha'is in the city of Yazd were prohibited from conducting any business transactions.

APPENDIX IV

Letters received from the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva

1. Pursuant to several requests for information from the Special Representative concerning individual cases, the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva sent the following letters to the Special Representative.

2. On 27 February 1997, the Permanent Representative sent a letter to the Special Representative that read as follows:

"The Leader of the Islamic Revolution, Ayatollah Seyed Ali Khamenei, on the occasion of the Eid Al-Fitr and the anniversary of the Islamic Revolution, pardoned 782 prisoners, sentenced by the public, revolutionary and military courts ..."

3. In response to a letter from the Special Representative dated 11 February 1997 concerning the arrest of Faraj Sarkouhi, the Permanent Representative, by a letter dated 7 March 1997, informed the Special Representative of the following:

"Mr. Faraj Sarkouhi, accompanied by his brother Ismail, was arrested on 2 February 1997 while attempting to leave the country illegally.

"Mr. Ismail Sarkouhi was released immediately.

"Mr. Faraj Sarkouhi had been encouraged by foreign agents to write the letter which he sent abroad. The letter's contents are groundless.

"At present, the investigation is going on and he is in a detention house with all convenient means of life at his disposal.

"In detention, he has called his wife and children who live in Germany and his other relatives in Shiraz.

"Soon, a court will examine publicly his charges."

4. By a letter dated 16 July 1997, the Permanent Representative replied to a joint urgent appeal of the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on the promotion and protection of the right to freedom of opinion and expression and on the independence of judges and lawyers and of the Special Representative, dated 2 July 1997, concerning Mr. Sarkouhi, as follows:

"With reference to your joint appeal dated 2 July 1997, I would like to draw your attention to the following information received from the authorities in Tehran:

(a) As he had stated in an interview, Mr. Faraj Sarkouhi left Tehran for Germany in November 1996. Therefore, any allegations about his detention in this period is baseless;

(b) He had been arrested on 2 February 1997 on charges of espionage and attempting to leave the country illegally;

(c) He has been neither tried nor convicted. Therefore, any allegation in this respect is categorically denied;

(d) He enjoys and will enjoy all legal rights in conformity with the due process of law, including the right to a fair trial and the right to a defence lawyer."

5. On 5 June 1997, the Permanent Representative replied to a letter from the Special Representative dated 16 April 1997 concerning the alleged poisoning with thallium of 60 Iranian Kurdish refugees in the Bazian camp in Iraq, reportedly carried out by Iranian agents. The letter read as follows:

"With reference to your letter dated 16 April 1997, I would like to provide you with the following communication received from the relevant authorities in Tehran:

'The Government of the Islamic Republic of Iran categorically rejects such allegations. Since the alleged incident has occurred in the territory of Iraq, it was impossible to acquire any information.'"

6. The Permanent Representative, by means of a letter dated 20 June 1997, replied to a letter from the Special Representative dated 12 March 1997 concerning the unrecognized arrest of Abbas Nava'i-Roshandel. The letter read as follows:

"Referring to your letter dated 12 March 1997, I would like to provide you with the following information received from the relevant authorities from Tehran:

'The Police in their investigations have not found any record on the arrest or detention of Abbas Nava'i-Roshandel. However, provision of further information such as his father's name and date and place of detention would facilitate the investigation.'"

7. In response to a letter from the Special Representative dated 9 April 1997 concerning the death under suspicious circumstances of Ebrahim Zalzadeh, the Permanent Representative, by a letter dated 14 August 1997, informed the Special Representative of the following:

"With reference to your letter dated 9 April 1997, I would like to draw your attention to the following information received from the relevant authorities:

'Death Certificate No. 10/5/1262, dated 14/02/79 (4 May 1997) issued by the Forensic Department states that a sharp-pointed object has pierced Mr. Ebrahim Zalzadeh's heart and has caused his death. The case is under investigation by the Police and the Judiciary.'"

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Fifty-second session
Agenda item 112 (b)
Human rights questions: Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Right to development

Note by the Secretary-General

1. At its fifty-first session, the General Assembly, in adopting resolution 51/99 of 12 December 1996, *inter alia*, reaffirmed the importance of the right to development for every human person and all peoples in all countries, in particular the developing countries, as an integral part of fundamental human rights.

2. In resolution 51/99, the General Assembly requested the Secretary-General to inform the Commission on Human Rights at its fifty-third session and the Assembly at its fifty-second session of the activities of the organizations, funds, programmes and specialized agencies of the United Nations system for the implementation of the Declaration on the Right to Development, as well as obstacles identified by them to the realization of the right to development.

3. On 16 December 1996, the Secretariat sent a note verbale seeking information relevant to the implementation of the Declaration on the Right to Development. At its fifty-third session, the Commission on Human Rights had before it the report of the Secretary-General (E/CN.4/1997/21), which will be made available to the General Assembly for its consideration.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Enhancing the effectiveness of the principle of periodic and genuine elections

Report of the Secretary-General

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I. INTRODUCTION

1. The present report has been prepared in response to a request made by the General Assembly in its resolution 50/185 of 22 December 1995. The purpose of the report is to present the progress to date in the implementation of resolutions 49/190 and 50/185, in particular to report on the status of requests from Member States for electoral assistance and verification, and on the efforts of the Secretary-General to enhance the Organization's support of the democratization process in Member States.

2. The information provided in the present report is divided into three sections: (a) implementation of General Assembly resolutions 49/190 and 50/185; (b) United Nations experience in electoral assistance over the past two years; and (c) reflections on future activities. Additional details of specific assistance projects between 18 October 1995 and 16 September 1997 are contained in the annex.

3. Over the past two years, the United Nations has continued to receive a significant number of requests from Member States for electoral assistance. However, as more Member States have passed through the initial phase of first-time multi-party elections, the focus is shifting away from the specific events surrounding election day to the consolidation of institutions and processes which are essential to viable democracies. That trend was first identified two years ago and has become increasingly pronounced.

4. As electoral assistance has taken on new dimensions, additional organizations and institutions have begun to offer advice and expertise. The coordination and complementarity of their activities is therefore of increased importance. The United Nations has consistently sought to encourage national capacity-building in its assistance projects, and with more partners engaged in electoral assistance, the prospects for creating sustainable independent electoral systems have been greatly enhanced.

II. IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTIONS 49/190 AND 50/185

A. Consolidation of electoral assistance capacities and coordination of activities

5. The Secretary-General has appointed Mr. Kieran Prendergast, Under-Secretary-General for Political Affairs, to serve as the United Nations focal point for electoral assistance activities. All requests for electoral assistance will be forwarded to the focal point for review. As in the past, the focal point will consider each request and advise the Secretary-General on an appropriate response. The focal point is assisted in that task by the Electoral Assistance Division, Department of Political Affairs of the United Nations Secretariat.

6. Requests for electoral assistance have continued at a high level, with the majority of such requests being for technical assistance. Over the past two years, electoral missions have been conducted in the context of only two

peacekeeping operations: the United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES) and the United Nations Observer Mission in Liberia (UNOMIL). That experience confirms the trend identified in the previous report (A/50/736), which suggested that the number of large-scale observation missions would decline over time, while the need for specific technical assistance projects would increase.

7. Cooperation within the United Nations system has expanded, and important initiatives have been taken by several organizations and agencies. Primary partners include the United Nations Development Programme (UNDP) and the Department for Economic and Social Affairs of the United Nations Secretariat. UNDP, particularly its Management Development and Governance Division, has undertaken research and pilot testing in specific areas in order to develop effective methods for larger field projects. UNDP has sponsored some 25 workshops on issues of governance and democratization in various regions, and hosted an international conference on governance for sustainable growth and equity at its headquarters in July 1997. The conference was attended by over 1,200 parliamentarians, mayors, national and local government officials, and representatives of civil society organizations, bilateral donors and United Nations agencies. In the field, UNDP has continued to provide important technical assistance to national electoral commissions; most notable is its continuing support for electoral processes in Haiti. The ongoing cooperation established earlier between the United Nations system and the Organization of American States (OAS) has provided a useful example of coordinated international support.

8. The Department of Economic and Social Affairs, as part of its efforts to improve the efficiency of public institutions and administrative procedures, has continued to focus on strengthening governmental capacity to conduct electoral processes, with a strong emphasis on sustainability and cost considerations. In addition to a large-scale study on election administration and cost, studies are being conducted on "best practices" in the electoral field. During the past biennium, the Department has provided advisory services and project support to Brazil, El Salvador, the Gambia, Guatemala, Guinea-Bissau, Guyana, Kenya, Liberia, Malawi, Mali, Mexico, Mozambique, Nicaragua, the Niger, Sierra Leone and Uganda. The resulting experience provides the basis for identifying new, effective responses to changing requirements. Analytical studies will address the impact of new technologies and their policy implications.

9. United Nations Volunteers (UNVs) have provided professional assistance in difficult and often complex situations. Most recently, UNVs served as the core electoral field staff for UNTAES, advising local election authorities on critical aspects of the electoral process. UNVs also played a significant role in the observation of the Liberian elections. The Office of the United Nations High Commissioner for Human Rights (OHCHR) continues to provide expert advisory services, particularly in legal analysis and legislative assistance with regard to electoral laws and related legislation. OHCHR also provides support for civic education efforts, training of public officials with key roles in elections and needs assessments. The United Nations Office for Project Services (OPS) has demonstrated its effectiveness as an executing agency, and offers a variety of administrative management support services, including project

management, recruitment of project staff, equipment procurement and administration of training programmes.

10. As a parallel project to the UNDP/Electoral Assistance Division 1997 election project in Mexico, the United Nations Children's Fund (UNICEF) collaborated with Mexico's Federal Electoral Institute in organizing elections on the rights of the child for children aged 6 to 12. The project was an effective instrument of civic education for both children and their parents, and provided unique information to Mexican educators concerning student values and attitudes throughout the country. The positive experience with the children's elections project in Mexico may serve as a basis for undertaking similar projects in other countries.

11. Over the past two years, several technical manuals and guidelines have been prepared by the Electoral Assistance Division and finalized for the use of relevant United Nations organizations, agencies and consultants, including revised guidelines for electoral assistance; a manual for missions requiring the coordination and support of international election observers; and guidelines for the conduct of technical needs assessment missions. Additional handbooks and manuals are planned.

B. Coordination with other organizations

12. The United Nations has continued to strengthen coordination with other organizations, and has taken several initiatives to establish greater cooperation in the field and at Headquarters. Those efforts have been aided by the recent proliferation of organizations interested in and capable of providing electoral assistance or support. Collaboration among such organizations frequently results in better assistance to the requesting Government at lesser cost to the individual assistance providers. The examples set out below of such collaboration over the past reporting period provide concrete evidence of the overall benefits to be derived from greater international consultation and cooperation.

13. In March and April 1997, the International Foundation for Election Systems (IFES) provided UNTAES with supplemental experts in civic education, training and information systems analysis. International observers for the election were sponsored by the Organization for Security and Cooperation in Europe (OSCE). The work undertaken by those experts was essential to the effectiveness of UNTAES, particularly given the complexity of the preparations for the election and the severe time constraints under which UNTAES carried out its mandate.

14. In Liberia, United Nations election observers were complemented by observers provided by the Organization of African Unity (OAU) and the Economic Community of West African States (ECOWAS). In addition to UNDP, technical assistance was also provided by the European Union, the Carter Center and IFES. Those organizations also observed the electoral process in its entirety. The contributions of each organization resulted in enhanced technical assistance, increased observer coverage of the country, and improved assessment of the process through information-sharing on the preparations for and conduct of the elections. The participation of the two regional organizations in support of

the Liberian electoral process was also welcomed as an appropriate regional response. In a more general context, OAU has held discussions with the United Nations in order to strengthen cooperation on the conduct of specific missions, information-sharing and the identification of experts.

15. An innovative partnership was continued in Mexico in early 1997, where the Electoral Assistance Division and UNDP collaborated with the Federal Electoral Institute of Mexico and the Autonomous National University of Mexico in organizing a series of seminars on aspects of election observation. The latest phase of the project is the development of an interactive, CD-ROM-based manual for election observation. The manual is designed to assist both domestic and international election observer groups worldwide in planning and implementing observation activities. An international workshop on electoral observation methodology was held in Mexico from 14 to 16 August 1997 in order for the project partners to discuss the basic design and contents of the proposed manual.

16. At Headquarters, the Department of Economic and Social Affairs has signed an agreement with IFES and the International Institute for Democracy and Election Assistance (IDEA) to carry out a joint study of the administration and cost of elections. The purpose of the project is to collect and make available practical information on the organization and conduct of elections that can be consulted by election administrators worldwide. An important component of the project is the production of a comprehensive and user-friendly CD-ROM encyclopedia of election management that can be consulted by election administrators. Among the topics that will be addressed are legislative frameworks, boundary delimitation, voter registration, vote counting, and the regulation of parties and candidates. Those and other issues will be covered with a summary of collected "good practices" and a discussion of alternative frameworks and/or procedures that might be used or adapted effectively for implementation in other countries. A pilot study has already been completed, and each of the three partner organizations has begun the activities for which it is responsible. Additional collaborative projects, involving UNDP, the Electoral Assistance Division and International IDEA, are currently under discussion.

17. In December 1996, the Electoral Assistance Division, together with UNHCR and IFES, provided funding for a study entitled "Refugee and internally displaced persons' participation in the upcoming Liberian elections". The study was prepared by the Refugee Policy Group, a Washington, D.C.-based centre for policy analysis and research on refugee issues. The study had two objectives: (a) to identify and analyse existing challenges to the participation of potential refugees and internally displaced persons (IDPs) in the July 1997 Liberian elections, and (b) to identify and compare successes and failures in enabling refugee/IDP participation. The first half of the report was submitted for consideration prior to the Liberian elections, and the second half will be finalized by the end of 1997.

18. The Association of African Election Authorities, established as one result of a November 1994 colloquium on African election administration (see A/49/675, annex II), held its founding meeting at Kampala from 14 to 16 January 1997. Participants at the meeting discussed a draft of the Association's charter, the

election of its officials, future organizational tasks and programme activities, and sources of funding. The meeting was supported by IFES through the United States Agency for International Development, and by the Electoral Assistance Division.

C. Ongoing activities

19. The Electoral Assistance Division continues to maintain a roster of elections experts, as requested in General Assembly resolution 46/137. In view of the changing needs for such experts, efforts have been made to expand the roster and to subject proposed candidates to methodical screening and evaluation in order to ensure their expertise and suitability as potential United Nations consultants. Most recently, the Electoral Assistance Division contacted a variety of national electoral commissions in order to seek recommendations of viable candidates from their countries.

20. As of 31 December 1996, the balance of the Trust Fund for Electoral Observation, including both general and earmarked contributions, totalled $1,364,262. However, a high proportion of those funds have been earmarked for specific projects.

21. As indicated in the previous report of the Secretary-General (A/50/736), the Electoral Assistance Division had planned a series of technical papers and the preparation of several operational manuals. As a first step, the Division organized an international round table on coordination and support missions in February 1996 in order to bring together experts in the field to discuss the strengths and weaknesses of that form of electoral assistance. The discussions provided a basis for the preparation of a field manual on coordination and support missions, which was reviewed by the round table participants and has since been introduced in the field as a standard reference for the implementation of coordination and support missions.

22. A manual on the conduct of needs assessment missions has also been prepared and reviewed, together with UNDP and other relevant agencies. That manual will be introduced for actual field use in the near future. At the same time, the established guidelines for electoral assistance have been subject to further review and adaptation with UNDP in order to ensure their continuing usefulness as the need for electoral assistance evolves.

23. Since the creation of the Electoral Assistance Division in 1992, the United Nations has acquired significant experience in the provision of electoral assistance in the context of peacekeeping missions. In an effort to evaluate such experience and improve upon past performance in the future, the Electoral Assistance Division and the Department of Peacekeeping Operations have held initial discussions on a potential "lessons learned" project to examine electoral assistance experience in the context of United Nations peacekeeping missions. That project is designed to identify strengths and weaknesses in the past and to assist the Organization in improving upon its performance in future peacekeeping missions.

24. Since its creation, the Electoral Assistance Division has prepared a monthly survey of electoral assistance activities, entitled "Electoral assistance activities of the United Nations system". The survey is compiled regularly into an annual report, and is available from the Electoral Assistance Division on request.

III. UNITED NATIONS EXPERIENCE

A. Major United Nations missions

25. In the past two years, the United Nations provided electoral assistance in the context of two peacekeeping operations: UNTAES and UNOMIL. As noted above, United Nations efforts were complemented in both cases with assistance provided by the relevant regional organizations (OSCE, OAU and ECOWAS).

26. The Electoral Unit of UNTAES was established at the end of September 1996 in order to carry out the UNTAES mandate of assisting the competent local authorities in the conduct of elections for all local government bodies. UNTAES field electoral officers laid much of the groundwork for the elections prior to the establishment of the local electoral commissions, and served as expert advisers to the Commission members. Elections for 28 municipal and city councils in the UNTAES-administered region were held simultaneously, with nationwide local elections on 13 April 1997. The official election results were announced on 30 April 1997 and certified by the Transitional Administrator on 6 May 1997. Following the announcement by the Government of Croatia that presidential elections would take place on 15 June 1997, UNTAES continued to provide technical assistance and logistic support to the electoral authorities, and mobilized UNTAES monitors to observe the presidential elections. Having completed its electoral mandate, the Electoral Unit of UNTAES was closed on 30 June 1997.

27. The Liberian presidential and legislative elections took place on 19 July 1997, and UNOMIL deployed over 300 international observers in carrying out its verification mandate. UNDP resumed its provision of technical assistance to the electoral commission, beginning in March 1997. Although some 33 medium-term observers began to arrive in mid-April 1997, the registration process did not take place until the end of June 1997. Their early presence, however, allowed the UNOMIL electoral office to follow and assess the entire electoral process in a comprehensive manner. The majority of observers arrived approximately one week before the election and departed within a few days of the announcement of the election results. In addition to the international observation, the UNOMIL electoral unit conducted a quick count that confirmed the official election results (for additional details on UNOMIL activities for the election, see S/1997/643).

B. Support for international observers

28. Since October 1995, the United Nations has coordinated international observers for elections in Algeria, Azerbaijan, Chad, the Comoros, Kyrgyzstan, Mali, Sierra Leone and the United Republic of Tanzania. Most recently, the

United Nations has begun to provide more strictly logistical support in deploying short-term international observers sponsored by Member States around the time of election day. That represents an adaptation of the standard coordination and support mission, which entails support for a comprehensive and long-term observation, beginning with registration and continuing through the campaign, election day and the announcement of the election results.

C. Technical assistance and advisory services

29. Since 18 October 1995, the United Nations has received an increasing number of requests for technical assistance and advisory services. Advice and assistance were provided to some 17 Member States on such issues as election organization and budgets, procurement, electoral laws, registration, training, computerization and comparative electoral systems. Technical assistance is most often provided through the Electoral Assistance Division, the Department of Economic and Social Affairs, UNDP and OHCHR, depending upon the type of assistance required.

30. The demand for technical assistance has increased because the majority of requesting States have moved from the conduct of first-time or transitional elections to the organization of second and third-time elections. As was noted in the previous report, technical assistance is generally cost-effective and short-term, oriented towards increasing expertise on a specific component of election organization. That trend is essentially positive, demonstrating the progress being made by many Member States in identifying weaknesses in their existing election systems and seeking assistance to strengthen their capabilities in organizing and administering regular elections.

D. Follow and report

31. Although the United Nations has occasionally provided one or two observers for limited short-term observations, that mode of electoral assistance has been found to have limited value. The dispatch of such observers and the preparation of an internal report entail both financial and personnel costs to the Organization, without bringing tangible benefit to the requesting country. As a result, that form of assistance should be authorized only in special cases. More discussion of that form of assistance can be found in an earlier report of the Secretary-General on that issue (A/49/675).

IV. REFLECTIONS FOR FUTURE ACTIVITY

32. The initial wave of first-time democratic elections in many Member States has passed. Today, there are comparatively few conflict situations which call for elections as a component of the peacemaking process. As a result, emphasis must now be placed on the sustainability of the electoral process, and on assisting electoral administrators to plan and conduct elections efficiently and with cost-effectiveness. The increased self-sufficiency of election administrations will also contribute to the credibility of the process, which should alleviate the earlier perceived need for international election

observers. The creation of permanent electoral institutions and the enhanced credibility of the electoral process are essential elements in creating sustainable electoral systems.

33. In response to the changing needs of the Member States, the United Nations must develop new forms of assistance which provide an effective response. The forms of assistance routinely provided in the past need to be reassessed and adapted to suit the more specific demands of increasingly well-informed and capable electoral administrators. Election observation, which is perhaps the most familiar form of international assistance, may not be as relevant as other forms of assistance. Needs assessment missions must engage representatives of requesting Governments in an active dialogue to determine the most pressing needs and the most effective forms of assistance to be provided. The United Nations, in particular the Electoral Assistance Division, needs to be prepared to backstop field projects over longer periods of time and with greater attention to specific results and resulting additional needs.

34. Although United Nations electoral assistance has been consistently oriented towards the building of national capacity, more attention must be directed towards ensuring that all aspects of election organization and administration are supported domestically. Indigenous capacity-building is important not only in terms of expertise but in the procurement of election materials. In the past, procurement has often entailed purchases from abroad as a result of time pressures and/or donor facilitation. However, an election administration must be able to organize and conduct later elections without the need for any form of international intervention. Progress towards indigenous capacity-building has been real and measurable, but elections will not be sustainable until dependence on outside assistance has been eliminated - whether for organizational expertise, financial support or physical procurement of elections materials.

35. The United Nations has assisted a significant number of countries in moving from first time multi-party elections to planning their second and third generations of elections. As those countries move forward, however, the Organization must also move ahead, seeking always to identify new modalities for serving its Member States effectively. The compilation and sharing of information and data on elections and their administration is an important new service which the United Nations is working to provide. New forms of direct assistance also need to be developed, but the United Nations remains committed to assisting Member States until external support is no longer required.

Annex

STATUS OF REQUESTS FOR ELECTORAL ASSISTANCE AS OF 16 SEPTEMBER 1997

Based on information received as of 16 September 1997, a summary of the electoral assistance activities of the United Nations between 18 October 1995 and 16 September 1997 is provided below, arranged alphabetically by country. The type of assistance provided is indicated in parenthesis.[a]

Albania

On 10 June 1996, the Secretary-General received a letter from the Permanent Mission of Albania to the United Nations inviting the United Nations to send observers for the rerun of elections in some electoral districts scheduled for 16 June 1996. Due to the short notice, the United Nations declined the invitation.

Algeria

In November 1995, the Secretary-General sent a team of seven observers to observe the final stages of the electoral campaign and election day. The observers remained in the country for approximately 12 days, and submitted an internal report to the Secretary-General after completing the mission (follow and report).

In February 1997, the Government of Algeria invited the Secretary-General to send observers to follow the Parliamentary elections held on 5 June 1997. In response to the request, the United Nations sent an evaluation mission to Algeria in March 1997. Based on the mission's findings, the United Nations sent a Coordinator to the country in April 1997 to coordinate and support the activities of some 100 international observers provided by Member States (coordination and support).

Armenia

In July 1996, the President of the Central Electoral Commission of Armenia invited the Secretary-General to send United Nations observers to the Presidential elections held on 22 September 1996, and requested the United Nations Resident Coordinator to coordinate the activities of United Nations agencies and other international organizations providing assistance to the electoral process. The invitation was declined due to insufficient lead time, which is necessary for a comprehensive observation of the electoral process.

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[a] For definitions of the seven different types of possible United Nations responses to requests for electoral assistance, see A/49/675, annex II.

Azerbaijan

Following a request from the Government (received in June 1995), the OSCE/United Nations Joint Electoral Observation Mission in Azerbaijan was established to coordinate the activities of international observers present for the Parliamentary elections held on 12 and 26 November 1995. More than 100 international observers from 25 countries were deployed during the first round, and over 20 international observers during the second round. A comprehensive report was later submitted as an OSCE/United Nations document (coordination and support).

Bangladesh

In May 1996, the Foreign Minister of Bangladesh sent a letter to the Secretary-General requesting United Nations technical assistance for the elections held on 12 June 1996. Accordingly, under UNDP project BGD/96/011, "Support to the electoral process of 1996", a Chief Technical Adviser was sent to the country to assist the electoral authorities. After the election, the expert remained in the country until the end of July 1996 to assist in the preparation of a UNDP project document entitled "Recommendations for future democratic elections in Bangladesh" (technical).

Benin

On 14 February 1996, the Government of Benin requested the United Nations to send observers to the Presidential elections held on 3 March 1996. The United Nations replied that due to the lack of lead time it was not in a position to send observers.

Brazil

Under the provisions of UNDP project BRA/93/035, a mission, composed of an electoral adviser provided by the former Department for Development Support and Management Services of the United Nations Secretariat, an electronic voting specialist and a consultant in electoral administration with experience implementing electronic voting systems, travelled to Brazil in November 1995 to advise the electoral authorities on the procurement of voting machines and the implementation of a nationwide system of electronic voting. The mission submitted a report (technical).

Burkina Faso

Following a request from the Government in August 1996 for United Nations assistance in organizing Legislative and Presidential elections scheduled for April 1997 and December 1998, respectively, the United Nations sent a needs assessment mission in February 1997. As a result, under the provisions of a UNDP technical assistance project, the United Nations provided assistance to the electoral authorities, mainly in the area of training (technical).

In addition, the United Nations declined a request for observers for the Presidential elections received through the Office of the United Nations High Commissioner for Refugees due to insufficient lead time.

Cambodia

In May 1996, the Government sent a letter to the UNDP Resident Representative requesting electoral assistance for the elections scheduled for 1998. Following a visit by the Director of the East Asia and Pacific Division of the Department of Political Affairs in June 1996, and a needs assessment mission headed by the Assistant Secretary-General of the Department and composed of a senior officer of the Electoral Assistance Division and a consultant, which was conducted in August 1996, a report was submitted containing several recommendations regarding possible United Nations technical assistance. Based on the report and a subsequent request by both the Government and the UNDP Resident Representative, the United Nations sent an electoral consultant in August 1997 to provide technical assistance to the electoral authorities in preparation for the elections (technical).

Cape Verde

On 27 November 1995. the Government sent a request to UNDP for financial assistance for the organization of the municipal elections scheduled for 21 January 1996. In addition, Legislative and Presidential elections were scheduled for 17 December 1995 and 18 February 1996, respectively. In December 1995, the Electoral Assistance Division informed the Resident Representative in the country that the United Nations was not in a position to provide financial or material assistance from the United Nations Trust Fund for Electoral Observation.

Chad

During 1995 and 1996, the United Nations provided technical assistance to the electoral authorities through UNDP project CHD/95/004, implemented by OPS. In addition, following a request received in February 1996 from the Government of Chad for observers, the United Nations conducted a needs assessment mission in April 1996, which recommended the coordination of international observers. Accordingly, the Acting Director of the Electoral Assistance Division was involved in assisting with the coordination of the activities of international observers present during the first round of Presidential elections on 2 June 1996 and the second round on 3 July 1996 (technical, and coordination and support).

Comoros

In October 1995, the Secretary-General received a letter from the Transitional Government of National Unity of the Comoros, requesting electoral assistance for the Presidential elections. Following the request, in

November 1995 the United Nations sent an electoral consultant to conduct a needs assessment mission. The consultant then prepared a project document for UNDP project COI/95/007, and was recruited to perform the functions of Chief Technical Adviser of that project (technical).

In addition, the Deputy Director of the Electoral Assistance Division travelled to the country at the beginning of March 1996 to coordinate the activities of international observers present during the first round of Presidential elections held on 6 March 1996. The second round was held on 16 March 1996 (coordination and support).

Subsequently, following another request received in May 1996 for assistance in the preparation of the constitutional referendum held on 20 October 1996 and the Legislative elections on 1 December 1996, the United Nations provided further technical assistance (technical).

In a separate request received in November 1996, the Government of the Comoros invited the United Nations to send observers to follow the Legislative elections scheduled for 1 and 8 December 1996. Due to insufficient lead time, the United Nations replied that it was not in a position to send observers.

Congo

In March 1997, the Government of the Congo sent a request to the United Nations, through the UNDP Resident Representative, for technical and material assistance for the Presidential elections scheduled to take place in July/August 1997. Subsequently, in May 1997, a request for observers was received. Following a needs assessment conducted by the Electoral Assistance Division in May 1997 and due to the political situation in the country, the United Nations declined the request.

Côte d'Ivoire

Following a request from the Government (April 1995), the United Nations sent a consultant to the country at the end of September 1995 to coordinate international observers for the Presidential elections held on 22 October 1995, and for the Legislative elections held on 26 November 1995. An internal report was submitted subsequently (coordination and support).

Croatia, Eastern Slavonia

On 15 January 1996, the Security Council adopted resolution 1037, in which it established the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES), for an initial period of 12 months. One of the mandates given to the civilian component of UNTAES was to organize elections and assist in their conduct, and to certify the results. The electoral component of UNTAES was established in November 1996, and the elections took place on 13 April 1997 (for more detail, see S/1996/622, S/1996/705, S/1996/883, S/1997/148 and S/1997/487) (supervision).

Democratic Republic of the Congo (formerly Zaire)

On 17 May 1996, the Government of former Zaire requested the Secretary-General to provide technical assistance for the elections then scheduled for July 1997. Following two separate needs assessment missions in June and July 1996, the Secretary-General agreed to provide assistance to the National Electoral Commission, through UNDP project ZAI/96/010, implemented by OPS. In addition, a United Nations Electoral Assistance Unit was established in September 1996 to follow the developments in the country and assess the possibility of further United Nations involvement. However, due to political developments in former Zaire, the technical project was suspended in April 1997, and the Electoral Assistance Unit at Kinshasa was closed in early May 1997 (technical).

Dominican Republic

On 30 April 1996, the Junta Central Electoral sent a letter to the Secretary-General inviting United Nations observers for the Presidential elections held on 16 May 1996. Due to insufficient lead time, the United Nations declined the invitation.

El Salvador

The United Nations received two separate requests from El Salvador for observers for the elections held on March 1997. The United Nations informed the Government that it was not in a position to send observers to the elections.

Equatorial Guinea

On 25 January 1996, the UNDP offices in Equatorial Guinea received a request from the Government inviting the United Nations to send observers to the Presidential elections scheduled for 25 February. The United Nations replied that due to the lack of lead time it would not be possible to organize an effective observation mission.

Fiji

Following a request from the Chairman of the Fiji Constitution Review Commission (July 1995) for assistance in identifying experts on electoral systems and methods of power sharing in multi-ethnic societies, and for possible financial support, the United Nations recommended five experts to prepare papers, to be funded by the United Nations. The papers were submitted to the Commission in December 1995 (technical).

Gabon

Following a request from the Government (May 1995) and after a needs assessment mission (July 1995), the United Nations provided a consultant in training to assist the Electoral Commission in preparing the elections held on 15 and 29 December 1996 (technical).

Gambia

Following a request from the Government (April 1995), the United Nations provided technical assistance to the electoral authorities from 1995 to February 1997, in preparation of the Presidential elections held on 26 September 1996 and Parliamentary on 2 January 1997 (technical).

In addition, the United Nations declined a request received in September 1996 for observers for the Presidential elections due to insufficient lead time and absence of enabling environment.

Ghana

On 2 September 1996, the Government sent an invitation for the United Nations to observe the Presidential and Parliamentary elections held on 7 December 1996. Accordingly, under the provisions of UNDP project GHA/96/004/A/01/01, implemented by the former Department for Development Support and Management Services of the United Nations Secretariat, a staff member from the Department travelled to the country to assist in the preparation of a project document, and a consultant was fielded to assist the National Electoral Commission in organizing the elections. In addition, two United Nations officers travelled to the country in early December to follow the last phase of the electoral process and prepare an internal report (technical and follow and report).

Guyana

On 27 February 1996, the Chairman of the Electoral Commission requested the United Nations to send a technical mission to Guyana in order to assess the needs of the Commission in connection with the general elections scheduled to take place in 1997. Accordingly, an officer from the Electoral Assistance Division travelled to the country to assess the technical requirements of the Commission, and to recommend a plan of action and time-frame for the general elections. A mission report was submitted. As recommended by the Electoral Assistance Division, an officer from the former Department for Development Support and Management Services of the United Nations Secretariat, subsequently prepared a detailed budget proposal for consideration by the donor community. Since July 1996, the United Nations has been providing technical assistance to the electoral authorities, through UNDP project GUY/96/001 (technical).

Haiti

The United Nations continued to provide technical assistance to the electoral authorities in Haiti throughout 1996 until June 1997. The Presidential elections were held on 17 December 1995, and on 6 April 1997, elections took place to elect one third of the Senate, the members of the communal section assemblies and 2 members of the National Assembly (technical).

Kyrgyzstan

In October 1995, the Government requested United Nations assistance for the Presidential elections held on 24 December 1995. Accordingly, the United Nations sent a consultant to conduct a needs assessment mission and to write a proposal for an umbrella project. A UNDP project was prepared, to be implemented by OPS, and a consultant was sent to provide assistance to the Electoral Commission, and - together with OSCE - to establish a Joint Electoral Observation Mission to coordinate the activities of international observers. The Presidential elections were held on 24 December 1995, and the Joint Mission presented a report (technical, and coordination and support).

Lesotho

On 12 June 1997, the Government of Lesotho requested United Nations electoral assistance for the organization of the Parliamentary elections scheduled for May 1998. Accordingly, an officer from the Electoral Assistance Division conducted a mission to assess the possibility of United Nations involvement, and submitted a report to the Focal Point for Electoral Assistance. The United Nations is considering providing technical assistance to the electoral authorities (technical).

Liberia

During 1996, the United Nations retained an Electoral Officer in the electoral component of UNOMIL to follow the preparatory phases of the electoral process and to advise the SRSG on electoral issues. Regarding technical assistance, UNDP project LIR/92/001, implemented by the former Department for Development Support and Management Services of the United Nations Secretariat, was briefly in operation between March and April 1996, when it was discontinued due to the political developments in the country. Subsequently, in accordance with the revived Abuja Accords, the Presidential and Legislative elections in Liberia were rescheduled to take place in May 1997, and in October 1996 the Government of Liberia sent a letter to the Secretary-General requesting the United Nations to send a technical survey team to conduct a study, in collaboration with the National Elections Commission of Liberia, for the holding of general elections. The mission was conducted in December 1996 and submitted a report. The UNDP technical assistance project reopened in the beginning of 1997, and the electoral component of UNOMIL began deployment March 1997. The elections were held on 19 July 1997 (for greater detail, see S/1997/643) (verfication and technical).

Madagascar

Following a request from the Government, in October 1996 the United Nations sent two staff members to follow the last phase of the electoral process leading to the Presidential elections on 3 November 1996. The officers submitted an internal report upon completion of the mission (follow and report).

Mali

In January 1997, the Government sent a letter to the Secretary-General requesting assistance for the electoral process scheduled for 1997. Following a needs assessment conducted by the Electoral Assistance Division in February 1997, the United Nations sent consultants on training, vote counting and coordination of observers in March 1997, under the provisions of UNDP project MLI/97/002. The Legislative elections were held on 13 April 1997 but were subsequently annulled due to serious problems with the conduct of the elections. Presidential elections were held on 11 May 1997, and Legislative elections on 20 July and 3 August 1997 (technical, and coordination and support).

Mexico

During 1996, the United Nations continued to provide electoral assistance to the Federal Electoral Institute (IFE), under the provisions of UNDP project MEX/94/001, implemented by OPS. The Electoral Assistance Division conducted two missions to Mexico in 1996 in order to prepare a series of activities to be undertaken jointly by the Division and IFE during 1996 and 1997. The plan included training seminars, the preparation of manuals on electoral observation, and comprehensive studies on the Mexican electoral system (technical).

In addition, in May 1997 UNDP project MEX/97/005/A/01/99 was created to provide financial support to national organizations that observed the electoral process culminating in the 6 July 1997 elections for the Chamber of Deputies and the Senate. The project was coordinated by an officer of the Electoral Assistance Division (technical).

Niger

Following a request for electoral assistance from the Government received in March 1996, the United Nations sent a needs assessment mission to the Niger, led by the Acting Director of the Electoral Assistance Division, which submitted a report, including recommendations. Under an already existing UNDP project NER/94/007, implemented by the former Department for Development Support and Management Services of the United Nations Secretariat, the United Nations provided further technical assistance to the National Electoral Commission. In addition, in June 1996 the Government requested the United Nations to coordinate the activities of international observers present during the Presidential elections held on 7 July (1st round) and 28 July 1996 (2nd round). Due to the short notice, the Organization was not able to respond positively. However,

UNDP provided limited logistical assistance to international observers (technical).

Pakistan

In January 1997, the Government requested the Secretary-General to send observers for the General Elections scheduled for 3 February 1997. The United Nations answered that due to the short lead time it was not in a position to send observers.

Panama

The United Nations continued to provide technical assistance to the electoral authorities until February 1996, under the provisions of UNDP project PAN/93/006 (technical).

Republic of Moldova

On 2 October 1996, the United Nations Centre for Human Rights received a request from the Government of the Republic of Moldova to observe the Presidential elections on 17 November 1996. The Centre replied to the Government that the request should have been addressed to the United Nations Focal Point for Electoral Assistance, and that assistance on human rights would not be possible due to insufficient lead time.

Romania

In 1996, the United Nations received two requests from the Permanent Mission of Romania to the United Nations for United Nations observers. The first was in May 1996 in connection with the local elections held on 2 June 1996, and the second in September 1996 for the Presidential and Parliamentary elections held on 3 November 1996. In both cases, due to the short notice, the United Nations was not in a position to send observers.

Sao Tome and Principe

In June 1996, the Government of Sao Tome and Principe sent a letter to the Secretary-General inviting observers for the Presidential elections scheduled for 30 June 1996. The United Nations replied that due to the short lead time and the lack of financial resources it was not in a position to send observers.

Sierra Leone

Based on an earlier request in March 1994, the United Nations began providing technical assistance to the electoral authorities of Sierra Leone in 1995, under the provisions of UNDP project SIL/95/003, implemented by the former

Department for Development Support and Management Services of the United Nations Secretariat. In addition to technical assistance, in January 1996 the United Nations established a small secretariat to coordinate the activities of international observers present during the final phase of the electoral process. Presidential and Parliamentary elections were held on 26 February and 15 March 1996 (technical, and coordination and support).

Sudan

In January 1996, the Secretary-General received a letter from the Government of the Sudan inviting the United Nations to send observers to the Presidential and Parliamentary elections held on 6 and 17 March 1996. Accordingly, in February 1996 the United Nations conducted a needs assessment mission, led by the Acting Director of the Electoral Assistance Division, after which the Government was informed that the United Nations was not able to provide observers for the elections in the time available.

Uganda

Under the provisions of UNDP project UGA/95/003, initiated in 1995 and implemented by the former Department for Development Support and Management Services of the United Nations Secretariat, the United Nations provided technical assistance to the electoral authorities in Uganda for the preparation of the Presidential elections held on 9 May 1996 and Parliamentary elections on 27 June 1996 (technical).

In addition, following a further request from the Government in April 1996, the Secretary-General sent a United Nations delegation composed of two United Nations officers to follow the Presidential elections and to report to him on its conduct and outcome. The team also provided assistance to the international observers present during the polling period (follow and report).

United Republic of Tanzania

Following a request from the Government (June 1995), and under the provisions of UNDP project URT/95/006 implemented by the former Department for Development Support and Management Services of the United Nations Secretariat, the United Nations provided two consultants to assist in the coordination of the international observers present during the electoral process. Elections were held on 22 October 1995 in Zanzibar and 29 October in the entire country (coordination and support).

Yemen

In June 1996, the President of the Supreme Electoral Commission sent a request to the United Nations Resident Coordinator in the country for United Nations assistance in the preparation of the Parliamentary elections held on 27 April 1997. Following the recommendation of a needs assessment mission

conducted in October 1996, the United Nations sent an expert in December 1996 to provide technical assistance to the electoral authorities (technical).

In addition, following a request from the Government, the United Nations sent two officers from the Department of Political Affairs to follow the final phase of the electoral process and to report on its conduct and outcome (follow and report).

Zambia

In July 1996, the Secretary-General received a letter from the Government inviting United Nations observers for the Parliamentary and Presidential elections held on 18 November 1996. In response to the request, the United Nations sent two officers to follow the last phase of the electoral process and submit an internal report (follow and report).

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Palestinian elections

In December 1995, the Secretary-General received an invitation from the Permanent Observer Mission of Palestine to the United Nations to participate in the observation of the Palestinian elections to be held on 20 January 1996. It should be noted that the agreement reached between Israel and the Palestine Liberation Organization designated the European Union as coordinator. In those circumstances, the United Nations, through UNRWA, provided some logistical support to the electoral process. United Nations observers did not participate.

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Strengthening of the rule of law

Report of the Secretary-General

I. Introduction

1. At its fifty-first session, the General Assembly adopted resolution 51/96 of 12 December 1996, in which, recognizing that the Office of the United Nations High Commissioner/Centre for Human Rights remained the focal point for coordinating system-wide attention for human rights, democracy and the rule of law, it noted that its programme of advisory services and technical assistance did not have assistance funds sufficient to provide any substantial financial assistance to national projects that had a direct impact on the realization of human rights and the maintenance of the rule of law in countries that were committed to those ends but that faced economic hardship. Emphasizing the importance on effective collaboration within the United Nations, the Assembly welcomed the consultations and contacts initiated by the High Commissioner with other relevant bodies and programmes of the United Nations system aiming at the enhancement of inter-agency coordination and cooperation in providing assistance for the strengthening of the rule of law; encouraged the High Commissioner to pursue those consultations, taking into account the need to explore new synergies with other organs and agencies of the United Nations system with a view to obtaining increased financial assistance for human rights and the rule of law; and also encouraged the High Commissioner to continue to explore the possibility of further contact with and support of financial institutions, acting within their mandates, with a view to obtaining technical and financial means to strengthen the capacity of the Centre to provide assistance to national projects aiming at the realization of human rights and the maintenance of the rule of law; and requested the Secretary-General to submit a report to it at its fifty-second session on the results of the contacts as well as on any other relevant developments.

II. Assistance provided by the Office of the United Nations High Commissioner for Human Rights in the area of strengthening the rule of law

2. In accordance with General Assembly resolutions 48/141 of 20 December 1993 and 51/96 and other relevant Assembly resolutions, the High Commissioner for Human Rights has the principal responsibility within the United Nations system for providing advisory services and technical and financial assistance with a view to supporting actions and programmes in the field of human rights. To that end, the technical cooperation programme of the Office of the United Nations High Commissioner for Human Rights has

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been developed to respond to requests from Member States seeking to strengthen the rule of law and, thereby, to secure the effective enjoyment of human rights. Among others, assistance is provided on incorporating international human rights standards in national laws, policies and practices and building national capacities and regional structures for the promotion and protection of all human rights, democracy and the rule of law. The programme offers a wide range of assistance and activities to those ends, including the strengthening of democratic institutions; human rights training and support to parliament, the judiciary and police, military and prison officials; constitutional assistance; legislative reform, in particular to ensure conformity with the relevant international human rights standards; strengthening capacity with regard to the administration of justice; the establishment and strengthening of national human rights institutions; training on the human rights aspects of free and fair elections; the promotion of human rights education, including curriculum development; and support to non-governmental organizations and civil society. Additional information on the programme and on specific activities undertaken in 1996 is contained in the report of the Secretary-General to the Commission on Human Rights on advisory services in the field of human rights.[1] Materials on specific technical cooperation projects, including many referred to in the above-mentioned report, may be found on the Website of the United Nations High Commissioner for Human Rights, which is available on the Internet at http://www.unhchr.ch.

3. It should be noted that, as part of its continuing efforts to develop training materials in support of rule of law technical cooperation activities, the Office recently finalized a major training package for the police, including a training manual for police trainers, training tools and visual aids. The training package also includes the *Pocket Guide on Human Rights Standards for the Police*, which is designed to be a readily accessible and portable reference for law enforcement officers and contains hundreds of standards in simplified format, organized according to police duties, functions and topics. The training package has been tested and developed in numerous training courses organized by the Office in different countries over the past three years and, in some cases, adapted to local conditions. For example, following a course organized by the Office for police trainers in Malawi, a specially adapted version was produced for Malawi police trainers and presented to the Inspector-General of Police. As part of the technical cooperation project in support of the United Nations Decade for Human Rights Education, the Office is in the process of producing a number of other human rights training packages, including one for legal professionals (judges, magistrates, prosecutors and lawyers) and one for prison officers. Lastly, two trainers' guides on human rights for civilian police and military trainers of peacekeepers were developed in 1996 and produced in connection with the two training courses conducted in cooperation with the Department of Peacekeeping Operations, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Staff College at Turin, Italy.

III. Increasing system-wide coordination of assistance in promoting human rights, democracy and the rule of law

4. In view of the growing number of United Nations bodies and agencies undertaking national assistance programmes in areas that touch upon human rights and the rule of law, it has become increasingly important that due attention be given to the coordinating role of the High Commissioner for Human Rights in order to incorporate the substantive expertise of the Office of the High Commissioner into such programme activities, to enhance effectiveness of action and to avoid unnecessary duplication. In that connection, the Vienna Declaration and Programme of Action states:[2]

> "The World Conference on Human Rights recommends increased coordination in support of human rights and fundamental freedoms within the United Nations system. To this end, the World Conference on Human Rights urges all United Nations organs, bodies and the specialized agencies whose activities deal with human rights to cooperate in order to strengthen, rationalize and streamline their activities, taking into account the need to avoid unnecessary duplication."

A. Increased coordination and cooperation at the national and international levels

5. Presently, the Office of the United Nations High Commissioner for Human Rights is carrying out major technical cooperation projects involving the rule of law in Argentina, Armenia, Bhutan, Burundi, Cambodia, El Salvador, Guinea, Malawi, Namibia, Nepal, Palestine, Rwanda, South Africa and Togo. Many of those projects are being undertaken in cooperation with other United Nations entities. In Palestine, for example, a technical cooperation project office opened in November 1996 to implement a two-year project on strengthening the rule of law through assistance and training for the Police Training School, expert

advice on legal reform, training for judges, prison officials and legal drafters and the provision of human rights documentation to government ministries and non-governmental organizations. The project is a part of a larger initiative involving a number of United Nations agencies providing support for the rule of law in Palestine. In that connection, the High Commissioner has provided a member of her staff who, since 1996, acts as a special adviser to the United Nations Special Coordinator in the Occupied Territories. Rule of law assistance from 17 bilateral and multilateral donor agencies active in Palestine is coordinated through the Office of the Special Coordinator.

6. Similarly, the field presence of the Office of the High Commissioner in Cambodia is implementing a major rule of law programme in coordination with numerous United Nations agencies and other international donors. One of the priorities of the technical cooperation project there is securing a system for the administration of justice consistent with international standards through assistance in drafting basic laws; training, assistance and human rights documentation for the courts; provision of training to police and prison personnel; assistance in drafting prison rules and regulations; and the training of paralegals.

7. The Office of the High Commissioner is presently implementing several major rule of law projects at the regional and global levels in close cooperation with other United Nations entities as well as regional organizations. Recent examples include the following:

(a) A project in cooperation with UNDP to strengthen regional cooperation among national human rights institutions in the Commonwealth of Independent States (CIS), as well as in Eastern and Central Europe;

(b) A regional project on human rights training for heads of military academics in Africa, in cooperation with the Organization of African Unity (OAU);

(c) A one-year project, in cooperation with the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), to collect data on human rights conditions in prisons in Central America, as well as to assess needs. A seminar is planned to discuss the findings and devise regional and national strategies for improving the prison systems in Central American countries;

(d) A two-year project, in cooperation with the Andean Commission of Jurists, to strengthen the administration of justice in the Andean region through the development of a database of judicial indicators; the creation of a regional information network; and the training of magistrates;

(e) In Bosnia and Herzegovina and in Eastern Slavonia, a major training course on human rights monitoring and law enforcement for International Police Task Force members of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) and for civilian police monitors of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES);

(f) A two-year project, in cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO), to implement the Plan of Action for the United Nations Decade for Human Rights Education (1995-2004);

(g) Two projects, in cooperation with the Department of Peacekeeping Operations and (for one of the projects) UNHCR and the ILO Training Centre, on peacekeeping and human rights for military and civilian police trainers.

B. Consultations within the United Nations system

8. In accordance with the mandate of the High Commissioner and pursuant to the pertinent resolutions of the General Assembly, the Office of the High Commissioner has deepened the ongoing dialogue with other United Nations entities with a view to integrating human rights concerns into all aspects of the Organization's work and to enhance system-wide coordination in promoting human rights, democracy and the rule of law. To that end, the Office has developed a number of new joint initiatives with many United Nations agencies and programmes, some of which are described in the preceding paragraph. Consultations with UNDP in particular has led not only to more joint projects but also to new cooperative arrangements that are expected to be finalized soon.

9. Another notable development has recently resulted from discussions between the Office, the Crime Prevention and Criminal Justice Division, the United Nations Children's Fund (UNICEF) and others with a view to closely coordinating assistance in the area of the administration of juvenile justice. Those discussions produced the detailed Guidelines for Action on Children in the Criminal Justice System, which were adopted by the Economic and Social Council in its resolution 1997/30, on the administration of juvenile justice. In that resolution the Council invited the Secretary-General to establish a coordination panel on technical advice and assistance in juvenile justice as foreseen in the guidelines. The panel is to consist of

representatives of the Crime Prevention and Criminal Justice Division, the Office of the United Nations High Commissioner for Human Rights, UNICEF, UNDP, other relevant United Nations organizations and interested regional and non-governmental organizations. It will focus its work in particular on follow-up to requests received from Member States pursuant to the recommendations of the Committee on the Rights of the Child.

10. In 1996 and 1997, the Office of the High Commissioner continued discussions with the World Bank aimed at securing greater support for the High Commissioner's efforts to strengthen the rule of law. Those discussions have not yet produced concrete results, but will continue in 1998.

11. In the context of the Secretary-General's plans for reform of the Organization, the High Commissioner is a member of the new policy coordination group of department heads and senior officials created to improve communication, cooperation and coordination among the Secretariat, UNDP, UNICEF and the United Nations Population Fund (UNFPA). Human rights concerns will also figure prominently in the work of the four executive committees the Secretary-General established in the key substantive areas of peace and security; economic and social affairs; development operations; and humanitarian relief. Those mechanisms will help the various United Nations departments, offices, funds, programmes and other entities to identify shared strengths and priorities, improve system-wide understanding of human rights issues and avoid duplication of effort.

C. Analysis by the High Commissioner of United Nations system-wide assistance

12. Most recently, the Secretary-General stated in his report of 14 July 1997, entitled "Renewing the United Nations: a programme for reform" (A/51/950), that better coordination of human rights-related assistance among the United Nations entities concerned would enhance the impact of those activities and reduce their overall costs. To that end, he directed the High Commissioner for Human Rights to undertake an analysis of technical assistance provided by United Nations entities in areas related to human rights and to formulate proposals for improving complementarity of action (ibid., paras. 200 and 201). The analysis will provide an overview of United Nations technical cooperation activities in areas that have a bearing on human rights and the rule of law; develop a better understanding of United Nations mandates and capacities in this field, including the comparative advantages of the various agencies and programmes concerned; identify the needs for closer inter-agency cooperation and coordination in order to avoid duplication; identify gaps and weaknesses in present arrangements with respect to programme content, target beneficiaries, funding and project administration; and identify ways to respond better to existing needs as to the quality, consistency and timing of United Nations assistance in the field of human rights and related areas. Steps have been taken by the High Commissioner to begin the exercise, which is expected to be completed in early 1998. There will be close consultation between her Office and United Nations partners throughout the process. A high-level expert inter-agency meeting may be convened by the High Commissioner in order to discuss the final report and to identify steps to be taken to implement the recommendations contained therein.

Notes

[1] E/CN.4/1997/86.

[2] A/CONF.157/24 (Part I), chap. III, sect. II.A, para. 1.